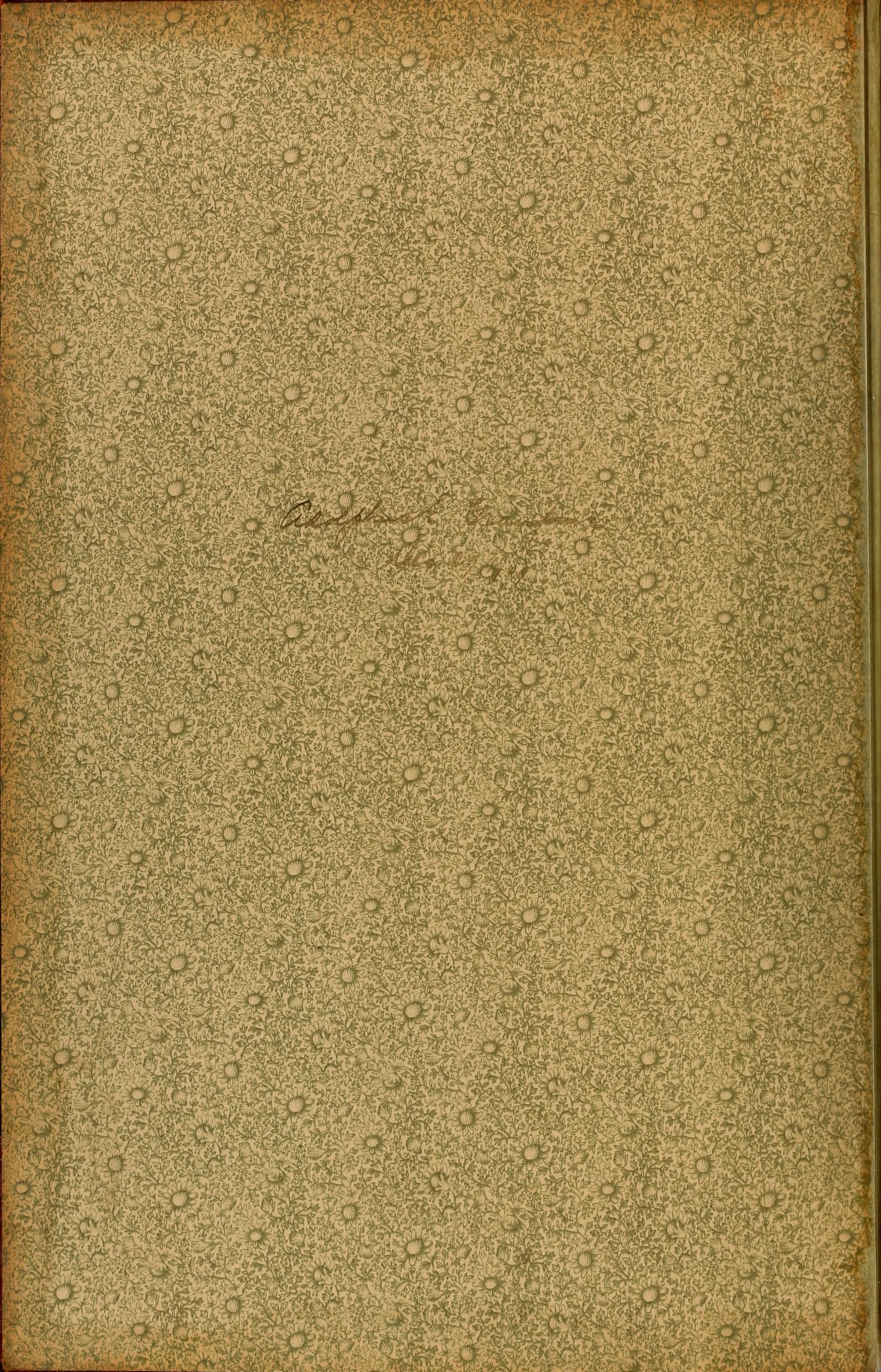

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— HISTORICAL SUMMARY —

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PROCEEDINGS HAD IN RELATION TO THE OUTSIDE LANDS OF THE CITY AND COUNTY OF SAN FRANCISCO, AND COMPILATION OF DECISIONS, ACTS OF CONGRESS, ACTS OF THE LEGISLATURE OF THE STATE OF CALIFORNIA, ORDINANCES, ORDERS AND RESOLUTIONS OF THE BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO, etc.

— by —

Adolphus E. Graupner,

1908.

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PROCEEDINGS IN RELATION TO OUTSIDE LANDS

DATE	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
July 7, 1846	Possession of California	Commodore John D. Sloat hoisted the American flag at Monterey and by proclamation took formal possession of California in the name of the United States Government.
July 4, 1848	Treaty of Gudalupe Hidalgo.	Treaty of Peace ceding California to the United States concluded at Guadalupe Hidalgo, February 2, 1848. Ratification advised by Senate, with amendments, March 10, 1848. Ratified by President March 16, 1848. Ratifications exchanged at Querétaro May 10, 1848. Proclaimed July 4, 1848.
December 15 1849	First State Constitution	First Constitution of California adopted by the Convention October 10, 1849. Ratified by the people November 13, 1849. Amended in 1857, 1862, and 1871.
April 15, 1850	Act of Incorporation (Stats. 1850, page 333.)	"An Act to incorporate the City of San "Francisco." The Western boundary of the City being fixed at Larkin Street, the Southern boundary at Mission Creek, and the Eastern and Northern boundaries by the Bay.
September 9 1850	Act of Congress	"An Act for the admission of the State of "California into the Union."
March 3, 1851	Act of Congress (9 U.S.Stats. at L. p.631)	"An Act to settle the private land claims "in the State of California." Providing for a Commission to take testimony and determine claims presented.
April 15, 1851	Act of Incorporation (Stats. 1851, page 357.)	"An Act to Re-incorporate the City of San "Francisco." Corporate limits bounded on the South by a line parallel with Clay Street, two and one-half miles distant in a Southerly direction from the center of Portsmouth Square; on the West by a line parallel with Kearny Street, two miles distant in a Westerly direction from the center of Portsmouth Square; and on the North and East by the Bay of San Francisco
	Appointment of U.S. Land Commission	R. Aug Thompson, S. B. Farwell and Alpheus Felch appointed United States Land Commissioners as provided in Act of Congress of March 3, 1851.
July 2, 1852	Petition for Pueblo Grant	Land Claim No.280- Petition of the City of San Francisco to the U.S. Land Commission for the confirmation to it of four square leagues of Pueblo Land filed by J. A. McDougall, Special Counsel for the City. Commissioners R. A. Thompson and S. B. Farwell filed opinion in favor of

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
		City's claim. Commissioner Alpheus Felch dissenting and favoring claim for lands lying only within the Charter line of 1850.
De cember 21, 1854	Decree of Commission, (See 4 Sawyer page 556.)	Decree of the U.S. Land Commission for California confirming the claim of the City to certain of the Pueblo Lands - Mission Creek fixed as the Southern Boundary.
August 29, 1855	Appeal of the City of S. F.	Appeal to the U.S.District Court from the Decree of the U.S. Land Commission filed by Halleck, Peachy & Billings as attorneys for the City.
June 2,1856	Appeal of the United States	Appeal from the same Decree filed by C. Cushing, Attorney General, on behalf of the United States.
March 30, 1857	Dismissal of Appeal of U.S.	In U.S. District Court - Appeal of the United States dismissed on notice that appeal would not be prosecuted.
July 1857	Decision of California Supreme Court	In Welch vs Sullivan, 8 Cal. 165, held that Act of Congress of 1851 operates as a grant to the Pueblos of all lands within their limits vacant and ungranted on July 7,1846.
March 11, 1858	Act of the Legislature (Stats. 1858, page 52.)	"An Act concerning the City of San Francisco "and to ratify and confirm certain ordin- "ances of the Common Council of said City." Confirming Ordinances Nos. 822 and 845.
April 1860	Decision of California Supreme Court	In Hart vs Burnett, 15 Cal. 530, held that San Francisco was a fully organized Pueblo and as such was entitled to four square leagues of land.
July 1,1864	Act of Congress (13 U.S.Stats at L. p.332)	"An Act to expedite the settlement of "titles to lands in the State of California." Granting lands within the Charter line of 1851 to the City of San Francisco.
September 5 1864	Order Transferring Cause	Order made transferring case of San Francisco vs United States from the District Court to the U.S. Circuit Court.
October 31, 1864	Opinion of Judge Field. (4 Sawyer p. 559.)	Opinion of Field, J. of the US. Circuit Court confirming the claim of San Francisco to four square leagues of Pueblo Lands as the successor of the Pueblo.
November 2, 1864	Decree and Appeal.	Decree of confirmation of City's claim for four square leagues of land - Appeal of the United States from said Decree granted.
November 14 1864	Notice of Motion to vacate Order allowing Appeal	Notice of Motion on the part of John B. Williams, Esq., Special Counsel of the United States to vacate Order allowing an appeal from the Circuit Court to the U.S Supreme Court

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
December 19 1864	Notice of Motion to Vacate Order of Appeal	Notice of Motion on behalf of the United States made by Delos Lake, U.S. Attorney, to vacate the Order of Appeal and open for rehearing the Decree of October, 1864.
May 11, 1865	Opinion denying Motion (4 Sawyer 568)	Opinion of Field J. denying the motion to open the Decree confirming the claim of the City - Order entered in accordance with opinion, but staying the entry of the final order for the purpose of modifying the final decree.
May 18, 1865	Final Order (See 4 Sawyer 576)	Final Order denying the motion of the United States to open for a rehearing of the case, the decree confirming the claim of the City to the Pueblo Lands, but ordering, for want of conformity of the Decree entered to the Decision expressed in the Opinion filed at the time, that the Decree be vacated and a new Decree entered.
May 18, 1865	Final Decree (4 Sawyer 576)	Final Decree confirming four square leagues of land to City.- Confirmation "in trust "for the benefit of the lot holders under "grants from the Pueblo, Town, or City of "San Francisco, or other competent author-"ity, and, as to any residue, in trust for "the use and benefit of the inhabitants of "the City." Field, J.
May 18, 1865	Motions for Appeal (4 Sawyer 578)	Motions on behalf of the United States, also City for an Appeal from final Decree. (Motions denied, May 29, 1865.)
September 26, 1865	Order No.659	Appropriating $800. for survey of the Pueblo Lands to be deposited in the U.S. District Court pursuant to Act of Congress.
October 16, 1865	Order No.665	Providing for surveys to protect the title of the Pueblo Lands. The Judiciary Committee of the Board of Supervisors authorized to employ a competent person to superintend the surveys to be made by the U.S. Surveyor General, at a compensation not to exceed $1000.
October 16, 1865	Application for Appeal.	Application on the part of the United States to the U.S. Supreme Court for a mandamus to compel the U.S. Circuit Court to allow an appeal from the Final Decree.

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
December, 11 1865	Report of Committee of Board of Supervisors. (Munic. Reps. 1865-66, p. 387)	Special Committee of the Board of Supervisors - Supervisors McCoppin, Torrey, Ashbury, Stanyan and Clayton - presented a report, which was adopted, recommending the appointment of three Commissioners to make a suitable and equitable disposition and conveyance of Outside Lands, and providing that no person in possession should be entitled to receive more than fifty acres of said lands, also before receiving a deed should be required to peacably deliver and convey any amount over and above fifty acres to the City and County and should also pay into the Treasury for a tract embracing ten acres of land 10 per cent of its appraised value; for the second ten acres 20 persent; for the third ten acres 30 per cent; for the fourth ten acres 40 per cent and for the fifth ten acres 50 per cent of the appraised value thereof, and in the same proportion for fractional quantities. The Commission to reserve one or more public parks, streets, lots for charitable purposes, for City cemetary, for schools, hospitals and for engine houses, and for other necessary public purposes. The residue of the lands to be sold at public sale in such quantities and upon such terms as would enable persons of limited means to purchase homesteads. The terms of sale to be one-third cash, one-third in one and the balance in two years; fifty percent of the amount remaining due and unpaid to the City on account of purchase to be remitted to the parties who within one year from the date of sale should expend a sum equal to fifty per cent of the purchase price of their lots in fencing, building upon or otherwise improving the same. Proceeds of sales to pay for lands reserved for the opening of free roads through said lands to the Ocean Beach and the improvement of the grounds reserved for a public park or parks.
January 15, 1866	Resolution No. 5088	City and County Attorney requested to prepare an Act for the settlement of titles to the City's Outside Lands in consonance with the plan adopted by the Board.
January 1866	Act of the Legislature Vetoed	A bill entitled "An Act to Provide for the "Settlement of certain Land Claims within "the City and County of San Francisco," embodying the views of the Board of Supervisors passed both houses of the Legislature, but was vetoed by the Governor, April 2, 1866.

Date	Nature of Proceedings	Nature of Decisions, Acts, Orders, etc.
January 11, 1906	Report of committee of Board of Supervisors.	Special Committee on the Jail reported a preliminary report, recommending the Chairman, Supervisors Dodge, Treiber, Kelly, Kinney, and Chapman, - presently a report, which was adopted, recommending the appointment of three commissioners to consider the advisability of building a new jail, and appoint competent architect, and prepare a report to the Board, and provide a suitable bond, and appropriate the sum of $500 to defray the expenses of said commission. The Board of Supervisors is empowered to appoint a committee of three to consider the advisability of building a new jail, and report to the Board. Also empowered to employ an architect and prepare a report to the Board. Also empowered to employ a competent engineer to make a report on the sanitary condition of the jail

PROCEEDINGS IN RELATION TO OUTSIDE LANDS

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
January 29, 1866	Mandamus to allow appeal awarded. (3 Wall.673)	Opinion of the United States Supreme Court awarding a mandamus to allow an appeal in the Pueblo Case. Field J. Dissenting. Mandate issued allowing appeal from the decree of the U.S. Circuit Court.
March 8, 1866	Act of Congress (14 U.S.Stats. at L. p.4)	"An Act to Quiet the Title to certain lands "within the corporate limits of the City "of San Francisco, Approved March 8, 1866." Title of the United States to land situated in the corporate limits of San Francisco and described in the Decree of the U.S. Circuit Court entered May 18, 1865, "relin- "quished and granted to the said City of "San Francisco, and its successors, and the "claim of the said City is hereby confirmed, "subject, however, to the reservations and "exceptions designated in said decree, and "upon the following trusts, namely: that all "the said land, not heretofore granted to "said City, shall be disposed of and convey- "ed by said City to parties in the bona fide "actual possession thereof, by themselves or "tenants, on the passage of this Act, in such "quantities and upon such terms and condit- "ions as the Legislature of the State of "California may prescribe, except such par- "cels thereof as may be reserved and set "apart by Ordinance of said City for public "uses:; provided, however, that the relinquish- "ment and grant by this Act shall not in- "terfere with or prejudice any valid adverse "right or claim, if such exist, to said land "or any part thereof, whether derived from "Spain, Mexico or the United States, or pre- "clude a judicial examination and adjust- "ment thereof."
March 26, 1866	Resolution No.5315	Requesting the Legislature to pass some Act for the settlement of titles to the Pueblo lands.
March 31, 1866	Act of the Legislature. (Stats.1865-6 p.531)	"An Act authorizing final judgments quieting "titles to lands in the City and County of "San Francisco to be recorded." Approved, March 31, 1866.
June 12, 1866	Order of U. S.Circuit Court	Appeal on the part of the United States, a party, from the decree in the Pueblo Lands case allowed.
August 31, 1866	Order of U.S. Circuit Court	Appeal on the part of the City of San Francisco from the decree in the Pueblo Lands case allowed.

Date	Subject of Proceedings	Notes of Decisions, Acts, Orders, etc.
January 26, 1909	Petition to allow written [illegible]	Opinion of the Justice Dunton Superior Court: "Inasmuch as a decision in this or appeal in the Public Case, Trial 1, Jurisdiction, Ba- [illegible] Justice allowing appeal from the decree of the T.C. Probate Court." (3 Mass. 277)
March 3, 1909	Act of Legislature [illegible]	"An Act to grant the City of Lynn to [illegible] [illegible] Provisions, Approved March 3, 1909. [illegible] [illegible] [illegible]

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
September, 10, 1866	Preliminaries to Order No. 733.	An order for the settlement and quieting of title to Outside Lands was introduced by Supervisor Clement; was passed for printing and referred to a Committee consisting of Supervisors Clement, Rowell, Ashbury, McCoppin and Stanyan, by whom it was favorably reported back, with amendments, September 17, 1866, and again passed for printing and referred to the Judiciary Committee, by whom it was favorably reported back, with amendments, October 1, 1866, and again passed for printing. On October 8 the Order was again amended, then finally passed and numbered 733, receiving the approval of Mayor H. P. Coon on October 12, 1866.
October 12, 1866	Order No. 733 (Munic. Reps. 1865-66, p. 389)	"An Order for the settlement and quieting "of the title to lands in the City and "County of San Francisco, situated above "high water mark of the Bay of San Francisco "and the Pacific Ocean, and without the cor-"porate limits of the City of San Francisco."
October 15, 1866.	Committee on Outside Lands elected.	Supervisors R. P. Clement, Frank McCoppin, and Charles H. Stanyan elected a special Committee on Outside Lands.
December, 1866.	Decision of U.S, Supreme Court. (72 U, S., 326)	Decision of the United States Supreme Court reaffirming all former decisions confirming the Pueblo Lands to the City of San Francisco. (Townsend vs Greeley).
December, 22 1866.	Order No. 748 (Munic. Reps. 1886-87 p. 158)	"To expedite the settlement of Land Titles "in the City and County of San Francisco." Providing for the execution of conveyances by the City to parties in possession of Outside Lands on March 8, 1866. This Order was passed by the Legislature, but failed to get the Governor's approval. Deeds given under this Order did not and cannot conclude the rights of third parties.
January 21, 1867.	Report of Surveyors	Geo. C. Potter and Wm. P. Humphreys, engineers and surveyors for the Committee on Outside Lands, submitted a report and plan for laying out the blocks and streets in the Outside Lands.
January 21, 1867.	Resolution No. 6404	Approving plan of Engineers and Committee for subdivision of Outside Lands into blocks.
January 21, 1867.	Report of Committee	Report of the Committee on Outside Lands as to the subdivision into blocks, etc. of the lands described in Section 1 of Order No. 733.
January 28, 1867.	Petition	First petition for a confirmatory title to Outside Land filed.

Date	Number of Instrument	Nature of Instrument, Body, Prince, etc.
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[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
February 4, 1867.	Resolution No.6457	Authorizing Assessor to employ competent persons to segregate the claims to land under Order No.733 for apportionment of taxes.
February 4, 1867.	Final Order of Court.	Final Order of the United States Circuit Court for California, dismissing the appeal taken from the Decision of said Court in the Pueblo Case, pursuant to mandates from the Supreme Court of the United States.
February 25, 1867.	Resolution No. 6680.	Record of Land Grant Orders and Notices of Award to be kept similar to that of street work.
February 26, 1867.	Resolution No. 6551.	Committee on Outside Lands instructed to enter into a contract with Geo.C.Potter and Wm.P.Humphreys to make surveys and map of Outside Lands at a cost of $12,000.
February 27, 1867.	Contract	Award of Contract to Potter & Humphreys for Map of Outside Lands.
March 25, 1867.	Resolution No. 6701.	Contract to publish Orders and Awards awarded to the "Times Publishing Company."
March 26, 1867.	Order No.769	Supplementary to Order No.733 and extending the time for the payment of taxes on Outside Lands.
April 9, 1867.	Order No.771	Amending Section 1 of Order No.748 providing for the receipt of petitions for grants of land.
May 7, 1867	Order No.776	Amending Section 6 of Order No.748, by providing that no conveyance made shall be deemed to conclude the rights of third persons in the lands so conveyed.
May 7, 1867	Order No.778	Extending the time for the payment of taxes on Outside Lands to July 1, 1867.
October 28, 1867.	Decision (4 Sawyer p. 653.)	Decision of United States Circuit Court in United States vs Hare that "lands within "the limits of the Pueblo of San Francisco "were not subject to levy and sale under "judgment and execution against the City." Also that "The lands of the Pueblo of San "Francisco were not held in absolute proper-"ty, with full right of alienation and dis-"position, but were subject to the control "and disposition of the government, until "the title passed to private parties; and "this right of control and disposition, "which existed in the former government, "passed upon the cession of the country to "the United States, and could afterward be "excercised by them at any time before the

Date	Decision of Tribunals	Series of Decisions, Air, Items, etc.
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
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[illegible]	[illegible]	[illegible]

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
		"property had passed to third parties by the "action of the Pueblo authorities, in accordance with existing laws." Also that "Parties who obtained conveyance from the City "of San Francisco, while its claim for Pueblo "lands was pending before the United States "tribunals, took whatever interest they acquired subject to the determination of the "claim."
December 2, 1867	Election of Committee.	Supervisors Chas. H. Stanyan, A. J. Shrader, and R. Beverly Cole elected Committee on Outside Lands.
December 24, 1867	Resolution No. 7809.	Appropriating $2500. for surveys of the Pueblo Lands by the U.S. Sueveyor General of California. (Stratton Survey.)
January 6, 1868	Resolution No. 7844.	Requesting the San Francisco delegation in the Legislature to procure the passage of an Act ratifying and confirming Order No. 748
January 14, 1868	Order No. 800 (Munic. Rep. 1868-69, p. 562.)	"An Order for the settlement and quieting "titles to land in the City and County of San Francisco, situated above high water "mark of the Bay of San Francisco and the "Pacific Ocean, and without the corporate "limits of the City of San Francisco."
January 20 and 27, 1868	Election of Committee.	Supervisors Chas. H. Stanyan, A. J. Shrader, R. Beverly Cole, Monroe Ashbury and Chas. Clayton elected Committee on Outside Lands.
February 3, 1868	Resolution No. 7925.	Authorizing Committee on Outside lands to engage horses and vehicles necessary to use in selecting public reservations.
March 27, 1868	Act of the Legislature. (Stats. 1868, p. 397.)	Act of the Legislature ratifying and confirming Order No. 800 (and Supplementary Act) approved. The Act ratifying Order No. 800 was passed by the Legislature with a proviso that no person in actual possession of any of the Outside Lands on March 8, 1866, and on which five years taxes were paid, should be dispossed of any of said lands for public reservations, except for streets, until compensation should be made therefor, also giving the Board of Supervisors power to exchange lands set apart for a cemetary and a public park. At a meeting of the Board held March 23, 1868, Supervisor Ashbury called attention to this proviso and a Resolution, No. 8163, was adopted, requesting this objectionable proviso to be stricken out of the bill. The bill having passed the Legislature, the Governor withheld his signature until the Supplementary Act was passed, by which the objectionable features were nullified. Both Acts were approved on the same day.

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
March 28, 1868	Actsof Legislature (Stats.1867-68. p.433)	Act of the Legislature, authorizing the Board of Supervisors to establish grades, etc. of Outside Land Districts and to provide and erect suitable monuments to perpetuate the work, and to expend therefor not to exceed $20,000., approved.
May 18, 1868	Maps and Reports (Munic.Reps. 1867-68, p. 559.)	Map of Outside Lands completed and with Reports of Committee (majority and minority reports being on Park Reservation) was submitted with a schedule of Public Reservations to the Board of Supervisors.
May 19, 1868	Advertisement of Completion of Map of Outside Lands.	Public notice given by advertisement for thirty days that the Map of Outside Lands was completed and deposited in the Clerk's Office for public inspection and would so remain for a period of thirty days, and requiring any person having or claiming any interest in any portion of said lands under Order No.800 to present to the Committee on Outside Lands a description and diagram of said lands, provided that the taxes for five fiscal years preceding the year beginning July 1, 1866, were paid, also notifying all parties having objections to the reservations set apart for public use to file the same within a period of thirty days.
June 15, 1868	Resolution No. 8514.	Committee on Outside Lands directed to give public notice that at meetings to be held by them on Thursday and Friday, June 18th and 19th, 1868, they will hear all objections that were made prior to June 19th, as to the locations of the public reservations.
June 16, 1868	Notice of Meetings.	Public notice given by public advertisements for three days that the Committee would hold open meetings on the dates and for the purposes named in Resolution No.8514.
June 18 and 19, 1868.	Meetings of Committee	Committee on Outside Lands held open meetings, and heard all persons who appeared and objected to reservations made.
June 22, 1868	Final Report of Committee. (Munic.Rep. 1867-68, p. 565.)	Report of Committee on Outside Lands as to changes in reservations selected for public purposes, and action recommended on twenty-three petitions filed. (The Committee reporting in favor of 18 and adversely on 5 petitions filed.)
June 23, 1868	Resolution No.8565. (Munic.Reps. 1867-68, p. 567.)	Report of Committee on Outside Lands in relation to changes in public reservations, adopted and Committee authorized to cause the alterations specified to be delineated on the Map of Outside Lands, and to make the said Map (except as to said alterations) conform to the majority report presented on May 18, 1868, with said Map.

Date	Number of Prisoners	Nature of Activities, Area, Dates, etc.

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
June 29, 1868	Message from the Mayor. (Munic.Reps. 1867-68, Addenda.)	Message from Mayor Frank McCoppin giving his reasons why an Order should be passed, as required by Section 668 of the Consolidation Act, in adopting the Map of Outside Lands and in dedicating land for public purposes.
June 29, 1868	Certificate of Surveyors (Munic.Reps. 1867-68, pp. 567, 568.)	Certificate from Potter and Humphreys, surveyors, and Report of Committee on Outside Lands, that the Map had been made to conform to the instructions contained in Resolution No. 8565.
July 8, 1868	Opinion of City & County Attorney. (Munic.Reps. 1867-68, p. 568.)	H. M. Hastings, City and County Attorney, rendered an Opinion to the Board of Supervisors as to the proceedure necessary to be taken by the Board in making Reservations of the Outside Lands for parks, school and engine lots, etc.
July 13, 1868	Resolution No. 8622. (Munic.Reps, 1867-68, p. 574.)	Approving and adopting the Final Report of the Committee on Outside Lands, and declaring the Map made by Potter & Humphreys, under the direction of the Committee, to be the Official Map of Outside Lands.
July 24, 1868	Order No. 823 (Munic.Reps. 1868-69, p. 558.)	Approving Acts of Committee on Outside Lands, also the Map and Reservations set apart for public purposes, and providing for a written description of the Reservations to be filed in the Office of the City and County Recorder
July 29, 1868	Resolution	Directing the Committee on Outside Lands to have a copy of the public Reservations made, as arranged in the volume filed in the Hall of Records, and deposit the same in the Office of the Clerk of the Board of Supervisors.
August 10, 1868	Resolution No. 8761.	Empowering Committee on Outside Lands to employ clerical and other assistants, as may be necessary, to facilitate the appraising and assessing of Outside Lands.
August 13, 1868	Stratton Survey	"Plat of the Pueblo of San Francisco finally "confirmed to the City of San Francisco by "Act of Congress, approved March 8, 1866, and "surveyed under instructions from U.S.Surveyor General, James T.Stratton, Dep.Sur. "Between March, 1867, and January, 1868, Containing 17,754 72/100 Acres."
November 20, 1868	Protest against the Stratton Survey	Protest of the City and County of San Francisco against the Stratton Survey, signed by John W. Dwinelle as attorney for the City, filed in the Office of the U.S.Surveyor General for California.

Date	Subject of Proceeding	Effect of Decision, with Reasons, &c.
June 29, 1914.	[illegible]	[illegible]
June 30, 1914.	[illegible]	[illegible]
July 3, 1914.	[illegible]	[illegible]
July 13, 1914.	[illegible]	[illegible]
July 21, 1914.	[illegible]	[illegible]
July 22, 1914.	[illegible]	[illegible]
August 21, 1914.	[illegible]	[illegible]
August 21, 1914.	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
December 7, 1868	Final Report of Committee on Outside Lands. (Munic.Reps. 1868-69, p. 559.)	Committee on Outside Lands filed their Final Report, in duplicate, of appraisements of the Reservations and the value of Outside Lands, with volume containing a description of the Reservations- one copy in the office of the City and County Recorder, and the other in the office of the Clerk of the Board of Supervisors. 139 Public Reservations made, comprising 1,376 55/100 acres; valuation $1,297,027. The rate of assessment on Outside Lands to pay for lots reserved for public purposes fixed at $10.73 upon each $100. of value of said lands.
December 7, 1868	Committee on Outside Lands	Supervisors C.H.Stanyan, A.J.Shrader, R.Beverly Cole, Monroe Ashbury and J.E.B.Cavallier elected a Committee on Outside Lands.
December 14 1868	Order to Clerk	Clerk of the Board of Supervisors directed to deliver to the Assessor the eight volumes of block books filed in his office by the Committee on Outside Lands.
December 21 1868	Resolution	Permitting Assessor to use the Official Map of Outside Lands until the Real Estate Assessment Roll for 1869-70 was completed and a copy of the Map made by him.
December 28, 1868	Order of Court	County Court fixed and awarded compensation of Outside Lands Committee (Chas.H.Stanyan, A.J.Shrader, R.Beverly Cole, Monroe Ashbury, and Chas.Clayton) for services in appraising Outside Lands, etc., at the sum of $10,500. ($2100. each).
February 8, 1869	Delivery of the Assessment Roll.	City and County Recorder delivered to the Tax Collector a certified copy of the Report of the Committee on Outside Lands. (Assessment Roll of Outside Lands.)
February 8, 1869	Resolution No. 9524.	Directing Surveyor to furnish specifications and plans for the establishment of grades of Outside Lands within the Districts specified in Act of the Legislature approved March 28, 1868, and Clerk to advertise for proposals.
February 15, 1869	Resolution No. 9546.	Requiring the Assessor to deliver to the City and County Surveyor the Map of Outside Lands to enable him to prepare plans and specifications for the establishment of grades of Outside Lands Districts.
April 29, 1869	Order No.866. (Munic.Reps. 1886-87, A.p. 163.)	"To amend Order No.748 entitled 'an Order to "expedite the settlement of land titles in "'the City and County of San Francisco' and "other orders amendatory of and supplementary "thereto." It was held in ROUSSETT vs REAY, 60 Cal.339, that Order No.866 was ratified by the Act of the Legislature of March 14, 1870, and that Sec.6 of the Act repealed all

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, Ectc.
		Orders and parts of Orders conflicting with Order No.866.
May 3, 1869	Resolution No. 9706.	Awarding contract to Humphreys & Potter to run lines, set monuments, take levels and report grades to be established within certain Outside Land Districts as per plans and specifications for the sum of $19,900.
May 3, 1869	Resolution No. 9721. (Munic.Reps. 1868-69, p. 560.)	Approving the Report of the Committee on Outside Lands and the assessment of the lands reserved, on the lands delineated upon the Map according to the appraised value of the same, etc.
May 17, 1869	Resolution No. 9778.	Clerk directed to advertise for bids to copy the Map of Outside Lands. Bids received June 7, 1869.
June 25, 1869	Resolution No. 9931.	Committee on Outside Lands empowered to make a contract with the City and County Surveyor to prepare a Map according to Official Surveys. (See dates of July 26, 1869; March 1, 1870; and)ctober 25, 1870.)
June 21, 1869	Order of Grant No.26.	First grant of Outside Lands awarded under the provisions of Order No.866.
July 26, 1869	Contract for Map of Outside Lands.	Contract entered into with Wm.P.Humphreys, under Resolution No.9931, for $5,000., for Map of Outside Lands. (January 3 and 24, 1870, extensions of time to complete same granted. Resolutions Nos.769 and 818, N.S.)
August 30, 1869	Resolution No.250, N.S.	Requesting City and County Attorney to prepare a form of deed to be used by the Mayor in conveyance of Outside Lands under provisions of Order No.866.
October 2, 1869	Order No.895 (Munic.Reps. 1886-87, p. A. 165.)	Allowing co-owners and tenants in common of tracts of Outside Lands to pay their proportionate share of the Outside Land Assessment and taxes which might be due or become due on their individual interests.
October 25, 1869	Resolution No.510, N.S.	Form of deed of Outside Lands prepared by City and County Attorney, under Resolution No.250, N.S., for conveyance of Outside Lands approved.
November 1, 1869	Resolution No.410, N.S. (Munic.Reps. 1868-69, p. 560.)	Requesting the Tax Collector to allow each person assessed for Outside Lands to deduct from the total amount of the assessment due by each person the total amount of such sum or sums awarded to such person for land reserved for the use of the City and County. (Resolution passed October 4; vetoed by Mayor, October 20; Passed over veto November 1, 1869. See Munic.Reps. 1868-69, p.561)

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
November 8, 1869	Resolution No.581 N.S.	Awarding contract to publish Orders and Awards of Land Grants to H.S.Moss & Co. in the Examiner newspaper.
November 22 1869	Order No.900 (Munic.Reps. 1868-69, p. 562.)	Requesting the Tax Collector to receive in payment of the assessments on Outside Lands orders drawn on himself by persons in whose favor awards of money were made for lands taken and reserved for public purposes. (Passed November 1; vetoed by Mayor November 11; and passed over veto November 22.)
November 22, 1869	Resolution No.645 N.S.	Declaring the intention of the Board of Supervisors to apply to the Legislature for authority to pay to Benj.E.Harris, Assessor, the sum of $2830.50 for moneys expended by him in making up the Assessment Roll of Real Estate as per plans and subdivisions of the Outside Lands. (See Act of the Legislature passed and approved March 4, 1870.)
November 26 1869	Order No.902	Authorizing the Treasurer to issue receipts upon the payment of assessments on Outside Lands, as evidence of title thereto.
November 29 1869	Resolution No.673 N.S,	Requesting the passage of an Act of the Legislature to enable the Board of Supervisors to pay to P.W.Van Winkle the sum of $1500. as compensation for extra services performed while acting as Secretary of the Committee on Outside Lands from April until December, 1869.
December 6, 1869	Committee on Outside Lands	Supervisors A.J.Shrader, Monroe Ashbury, M.J Kelly, T.McCarthy and Henry Winkle elected Committee on Outside Lands.
December 13 1869	Resolution No.716 N.S.	Requesting the passage of an Act of the Legislature to authorize the Mayor and Tax Collector to postpone the sale of Outside Lands for the assessment made to pay for lands reserved, from time to time, but not longer than the first Monday in July, 1870.
December 20 1869	Resolution No.743 N.S.	Requesting the passage of an Act of the Legislature modifying and confirming Order No.866.
December 23 1869	Act of the Legislature. (Stats.1869-70, p.3.)	Empowering the Mayor and Tax Collector to extend the time for the collection of Outside Land Assessments, from time tottime, but not beyonf ninety days from January 1, 1870.
January 20, 1870	Opinion of City & County Attorney.	Opinion of Joseph M.Nouges, City and County Attorney, on right of Committee on Outside Lands to change the amount of any assessment where error had been made in valuation, holding that they had no such right.

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
January 28, 1870.	Resolution No.1017 N.S.	Directing City and County Surveyor to place all streets to be opened or deeded to the City on Map of Outside Lands.
February 19 1870	Act of Legislature (Stats.1869-70, p.820)	Empowering the Board of Supervisors to pay to P.W.Van Winkle the sum of $1,500. for services rendered as Clerk of the Committee on Outside Lands.
March 1, 1870	Act of Legislature (Stats.1869-70, p.104)	Empowering the Board of Supervisors to pay to Wm.P.Humphreys, City and County Surveyor, the sum of $5,000. for an Official Map of the City and County.
March 4, 1870	Act of Legislature (Stats.1869-70, p.127)	Empowering the Board of Supervisors to pay $2,830,50 to Benj.E,Harris,Assessor, for extra work in making up Assessment Roll of Outside Lands.
March 14, 1870	Act of Legislature (Stats.1869-70, p.353)	"An Act to expedite the settlement of Land "Titles in the City and County of San Fran-"cisco, and to ratify and confirm the acts "and proceedings of certain of the author-"ities thereof." Providing for the issuance of deeds by the Mayor to Pueblo Lands when granted by the Board of Supervisors.
March 28, 1870	Order of Grant No. 83.	First grant of Lands awarded under provisions of the Act of the Legislature to expedite the settlement of land titles.
September 27 1870	Order No.955	Grades of certain Outside Lands established.
October 25, 1870	Order No.966 (Orders 1907, p.2)	Establishing and adopting the Humphreys Map as the Official Map and Plan of the City and County of San Francisco.
November 7, 1870	Order No.972	Establishing grades of certain of Outside Lands.
December 5, 1870	Committee on Outside Lands	Supervisors Edward Commins, A.J.Shrader, T. McCarthy, A.B.Forbes and Robt.Goodwin elected Committee on Outside Lands.
December 12, 1870 to November 27, 1871	Orders of Grant Nos. 155 to 195	Orders of Grant Nos. 155 to 195 passed by the Board of Supervisors adjudging and awarding grants of Outside Lands.
January 9, 1871	Resolution No.1779 N.S.	Contract awarded to Wm.S.Moss & Co. to publish official advertisement in Daily Examiner
December 1, 1871	Committee on Outside Lands	Supervisors S.P.Taylor, H.F.Swain, H.L.King, Jas.Barrett, Timothy McCarthy appointed a Committee on Outside Lands.

Date	Subject of Proceedings	Nature of Decision, Date, Orders, etc.
January 20, 1970	Investigation. Public ...s.	Finding that the Board should grant to Clear Air Corporation the permit to operate at Station 1 in the City of Florida Lake.
February 13 1970	Application for Permit (Order Issued To. ...)	Approving the Board of Supervisors to pay to F.W. Fox the fee of $1,000.00 for services rendered as State of the Counties of Tri-County.
March 3, 1970	Petition (Order Issued To. ...)	Approving the Board of Supervisors to pay the use of $1,000.00 for an official car of the City and County.
March 4, 1970	Petition (Order Issued To. ...)	Approving the Board of Supervisors to pay a fee of $1,000.00 for an official car of the County of Florida Lake.
March 11, 1970	Petition (Order Issued To. ...)	The Act to amend the Board of Supervisors to pay the City and County.
March 12, 1970	Petition (Order Issued To. ...)	Approving the Board of Supervisors to pay a fee of $1,000.00 for an official car of the County of Florida Lake.
March 24, 1970	Open Mtg.	Open meeting of Lake Dentists Group pursuant to the Act of the Legislature to amend Public Ins Department of Ins.
September 2, 1970	Public Hearing	Public of Lake Dentists Group Public Hearing.
October 21, 1970	Open Mtg. (Order Issued To. ...)	Authorizing and ordering the Department of Ins. as the Director of the Department.
November 3, 1970	Open Mtg.	Publication order of Lake Dentists Group.
December 3, 1970	Consideration of Open Mtg.	Authorizing Board of Supervisors to pay Dr. Fox, Dr. Smith, Dr. Jones, and Dr. Smith as Dentists in Lake County.
December 12, 1970	Petition of Open Mtg.	Petition of Lake Dentists to the Board of Supervisors authorizing the Department of Ins. to the Dentists Group.
January 8, 1971	Consideration of Open Mtg.	Petition of Lake Dentists to the Board of Supervisors to pay Dr. Fox, Dr. Smith, Dr. Jones, and Dr. Smith.
January 9, 1971	Consideration of Open Mtg.	Petition of Lake Dentists to the Board of Supervisors to pay Dr. Fox, Dr. Smith, Dr. Jones, and Dr. Smith.

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
December 18 1871 to December 9/72.	Orders of Grant Nos. 196 to 210	Orders of Grant Nos. 196 to 210 passed by the Board of Supervisors adjudging and awarding lands to persons named in petitions for grants.
December 18 1871	Resolution No.2714 N.S.	Contract awarded to Wm. S. Moss & Co. to publish Official Advertisements in the Daily Examiner.
December 23 1872	Committee on Outside Lands	Supervisors S.P.Taylor, H.F.Swain, H.L.King, Jas.J.Kenney, Timothy McCarthy appointed Committee on Outside Lands.
December 23 1872	Resolution No.3700 N.S.	Contract awarded to Wm.S.Moss & Co. to publish Official Adevrtisements in the Daily Examiner.
January 20, to November 19, 1873	Orders of Grant Nos. 211 to 216	Orders of Grant Nos. 211 to 216 passed by the Board of Supervisors awarding grants of land.
December 1 1873	Committee on Outside Lands	Supervisors M.Lynch, Stewart Menzies, D.A. McDonald, Jas.J.Kenney, A.W.Scott appointed Committee on Outside Lands.
December 22 1873 to December 4/75.	Orders of Grant, Nos. 217 to 234.	Orders of Grant Nos. 217 to 234 passed by the Board of Supervisors adjudging and awarding grants of land.
January 5, 1874	Resolution No.4741 N.S.	Contract awarded to Wm.S.Moss & Co. to publish official advertisements in the Daily Examiner.
January 1874	Decision of Supreme Court Iburg vs Saunet, 47 Cal.p. 265.	"The words 'Bona fide actual possession' in "the Act of Congress, passed March 8, 1866, to "quiet title to certain lands within the "corporate limits of the City of San Francisco, mean a possession which is bona fide "as against adverse claimants, and not as "against the Government."
December 21 1874	Resolution No.6858 N.S.	Contract awarded to Wm.S.Moss & Co. to publish Official Advertisements in the Daily Examiner.
December 6, 1875	Committee on Outside Lands	Supervisors August Drucker, D.A.McDonald, J.H.Wise, Jno.C.Roberts, Thos.Bryan appointed Committee on Outside Lands.
December 27 1875	Resolution No.8225 N.S.	Contract awarded to Wm.S.Moss & Co. to publish Official Adevrtisements in the Daily Examiner.
January 24, 1876 to November 23/77.	Orders of Grant Nos. 235 to 243.	Orders of Grant Nos. 235 to 243 passed by the Board of Supervisors, adjudging and awarding grants of land.

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
May 9, 1876	Act of Congress. (U.S. Stats at L. 1875-77, p. 52.)	"An Act to relinquish the interests of the "United States in certain lands to the City "and County of San Francisco, in the State "of California." Relinquishing all the right and title of the United States to a portion of the Military Reservation known as the Presidio, or Fort Point Reservation, to the City and County and its successors, etc., for the benefit of persons, who, if said lands had not been reserved for public use would have been entitled thereto under Order No. 800, and providing for the extension of Lyon Street North to the Bay of San Francisco.
January 2, 1877	Resolution No. 10045 N.S.	Contract awarded to Wm.S.Moss & Co. to publish Official Advertisements in the Daily Examiner.
November 4 1877	Resolution No. 11498 N.S.	Empowering the Mayor to employ the Hon. Jno. W. Dwinelle to proceed to Washington, at a compensation of $2,000., to represent and defend the interests and rights of the City and County in the matter of the Pueblo Lands and to obtain a Patent for said Lands.
December 3, 1877	Committee on Outside Lands	Supervisors Horace L. Hill, A.W.Scott, Robt. Haight, Henry Brickwedel and Fred A. Gibbs appointed Committee on Outside Lands.
January 17, 1878	Resolution No. 11883 N.S.	Contract awarded to Wm.S.Moss & Co. to publish Official Advertisements in the Daily Examiner.
February 11 to July 31, 1878	Orders of Grant Nos. 244 to 246.	Orders of Grant Nos. 244 to 246 passed by the Board of Supervisors adjudging and awarding grants of land.
October 28, 1878.	Committee on Outside Lands	Supervisors Thos.A.Talbert, A.W.Scott, Robt. Haight, Henry Brickwedel and Fred A.Gibbs appointed Committee on Outside Lands.
November 18 1878 to October 27/79.	Orders of Grant Nos. 247 to 255.	Orders of Grant Nos 247 to 255 passed by the Board of Supervisors adjudging and awarding grants of land.
November 11 1878,	Resolution No. 12992 N.S.	Declaring that it is the desire of the Board of Supervisors and of the people that a Patent should issue for the Pueblo Lands and resolving that the Board will not entertain any further consideration of the subject, and requesting the Commissioner of the General Land Office to decide the question before him, so that a Patent might issue.

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
November11 1878	General Land Office Decision	Decision of the Hon.J.A.Williamson, Commissioner of the General Land Office, approving the so-called Stratton Survey of the Pueblo Lands.
December 23 1878	Resolution No. N.S.	Declaring that the Board of Supervisors take no appeal from the Decision of the Commissioner of the General Land Office.
December 28, 1878	Resolution No.13190 N.S.	Contract awarded to Wm.S.Moss & Co. to publish Official Advertisements in the Daily Examiner.
February 10 and 20, 1879	Resolutions Nos.13340 and 13358 N.S.	Acce pting the resignation of the Hon.Jno. W.Dwinelle, Special Counsel for the City and County of San Francisco, he having filed an unauthorized Notice of Appeal from the Decision of the Commissioner of the General Land Office in the matter of the Pueblo Lands and the Stratton Survey thereof.
February 17, 1879	Resolution No.13370 N.S.	Requesting the Mayor to transmit by telegraph to the Secretary of the Interior a copy of Resolution No.13340 N.S.
May 7, 1879	Second State Constitution Ratified.	Constitution adopted by Convention March 3, 1879. Ratified by the people May 7, 1879. (Amended in 1884 and 1887)
May 19, 1879	Land Office Decision.	Decision of the Commissioner of the General Land Office modifying former decision confirming the Stratton Survey of the Pueblo of San Francisco by excluding certain lands on the Southern side of the Presidio.
July 21, 1879	Resolution No.13730 N.S.	Ordering an Appeal taken to the Secretary of the Interior from so much of the decision of the Commissioner of the General Land Office as modifies the Stratton Survey of the Southern boundary of the Presidio Reservation, and instructing the City and County Attorney to perfect and prosecute said appeal; providee, that no expense shall be entailed thereby on the City and County.
December 1 1879	Committee on Outside Lands	Supervisors E.N.Torrey, Samuel Drake, Hugh Fraser, John Mason, Antone Schottler appointed Committee on Outside Lands.
December 15 1879 to November 28/81.	Orders of Grant Nos. 256 to 265	Orders of Grant Nos 256 to 265 passed by the Board of Supervisors adjudging and awarding grants of land.
December 29 1879	Resolution No.14293 N.S.	Declaring the Stratton Survey of the Pueblo to be the only legal and proper definition of the boundaries of the Pueblo Lands, requesting the Secretary of the Interior to take up and decide said case without further

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
		delay, and directing officials not to ask for further postponement on behalf of the City, and empowering the Mayor to telegraph a copy of the Resolution to the Secretary of the Interior.
January 12 1880	Resolution No. 14293 N.S.	Contract awarded to Bunker & Heister to publish Official Advertisements in the Daily Stock Report.
January 19 1880	Resolution No. 14361 N.S.	Declaring that, in the opinion of the Board of Supervisors, the Stratton Survey is correct, and that without the knowledge or authorization of the Board a Clerk had been dispatched from the Office of the City and County Attorney to Washington, and who, from reports received, is not acting in the interests of the City and County of San Francisco, and therefore reciting that W.T. Baggett has no authority to represent the City before the Department of the Interior in the matter of the Pueblo Survey, and directing a copy of the Resolution to be telegraphed to the Secretary of the Interior, requesting a speedy determination of the boundaries of the Pueblo and an issuance of the Patent at an early date.
December 6 1880	Resolution No. 14965 N.S.	Contract awarded to Bunker & Heister to publish Official Advertisements in the Daily Report.
March 3, 1881	Decision of Secretary of the Interior. (Munic. Reps. 1882-83, p. A.227.)	Decision of Hon. C. Schurz, Secretary of the Interior, sustaining the decision of the Commissioner of the General Land Office in the matter of the Stratton Survey of the Pueblo Lands, and directing said survey to be amended by including the tract of land within and above the mouth of Mission Creek; determining the location of the Southeast corner of the Presidio Reservation, etc.
April, 1881	Motion for Review of Decision	Motion for review of Decision of Hon. C. Schurz, Secretary of the Interior, presented and renewed.
November 26 1881	Notice from U.S. Surveyor General	Communication from the United States Surveyor General for California, stating that at his request the City and County Surveyor e stablished the West line of Lyon Street, extended that Street to the shore line of the Bay, and planted monuments to indicate the line, and referring the matter of compensation of that Officer to the Board of Supervisors.

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
November 28 1881	Report of Committee on Streets.	Report of Committee on Streets in favor of compensating A.A.Lindsley, City and County Surveyor, in the sum of $140, for expenses incurred in establishing tha West line of Lyon Street extended to the Bay, and for placing monuments to indicate the line, and demand of A.A.Lindsley for amount to be allowed and ordered paid by the Board.
December 5 1881	Committee on Outside Lands	Supervisors Geo.Torrens, Geo.B.Bradford, John H.Carmany, John McKew and John Shirley appointed Committee on Outside Lands.
December 27 1881	Resolution No.15453, N.S.	Contract awarded to Bunker & Heister to publish official advertisements in the Daily Report.
January 16, 1882, to January 5/83.	Orders of Grant Nos. 266 to 276.	Orders of Grant Nos. 266 to 276 passed by the Board of Supervisors adjudging and awarding grants of land.
September 1882	Motion for Review of Decision.	Motion for review of Decision of Hon. Carl Schurz, Secretary of the Interior, presented and renewed.
December 11 1882	Resolution No.16010, N.S.	Contract awarded to Bunker & Heister to publish advertisements in the San Francisco Daily Report.
January 8, 1883	Committee on Outside Lands	Supervisors John D.Griffin, J.G.James, Fleet F.Strother, Thos.Ashworth and J.J.Reichenbach appointed Committee on Outside Lands.
April 30/83 to November 24, 1884.	Orders of Grant Nos. 277 to 286.	Orders of Grant Nos. 277 to 286 passed by the Board of Supervisors adjudging and awarding grants of land.
July 12 and October 18, 1883	Decisions of the Secretary of the Interior. (Munic.Reps. 1882-83, A.p. 234 and 238)	Decisions of Hon. H.M.Teller, Secretary of the Interior confirmatory of the Decision rendered by the Hon.Carl Schurz in the matter of the Stratton Survey, and ordering a new survey in accordance with the instructions set forth in the aforementioned decisions.
October 24, 1883	Instructions from General Land Office. (Munic.Reps. 1882-83, A.p. 241.)	Communication of Hon.N.C.McFarland, Commissioner of the General Land Office, to U.S. Surveyor General at San Francisco, to make a survey of the Pueblo Lands in accordance with the Decision of the Secretary of the Interior, within twenty days, and return the plat for approval.
December 1883	Letter of Instructions to Dep.Surveyor General Von Leicht.	"Special Instructions to United States "Deputy Surveyor F. Von Leicht to complete "survey of the boundaries of the Pueblo "Lands of San Francisco, in the State of "California."

Date	Manager (Pitcher)	Notes of Delivered, Hits, Errors, etc.
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
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PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
December 17 1883	Resolution No.16698, N.S.	Contract awarded to Bunker & Heister to publish Official Advertisements in the San Francisco Daily Report.
January 18 1884	Von Leicht Survey	Survey, Plat and Description of the Pueblo Lands, prepared by W.H.Brown, U.S. Surveyor General for California.
June 20, 1884	Patent for Pueblo Lands (Munic.Reps. 1886-87, A.p. 210.)	Patent of the Pueblo Lands issued by the Government of the United States to the City of San Francisco. Recorded in General Land Office, Vol.12, pp.297 to 340 inclusive. Recorded with County Recorder of the City and County of San Francisco, July 1, 1884, in Liber 1 of Patents, page 91. (Decisions of State Supreme Court as to Patents - Yount vs Howell, 14 Cal.465; Gallup vs Armstrong, 22 Cal.480; Vance vs Kohlberg, 50 Cal.346.)
December 15 1884	Resolution No.17703, N.S.	Contract awarded to Bunker & Heister to publish Official Advertisements in the San Francisco Daily Report.
January 5, 1885	Committee on Outside Lands	Supervisors W.B.Farwell, Jas.Gilleran, Danl. McMillan, Albert Heyer and Jno.E.Kunkler appointed Committee on Outside Lands.
February 16, 1885, to December 13/86.	Orders of Grant Nos. 287 to 307.	Orders of Grant Nos. 287 to 307 passed by the Board of Supervisors adjudging and awarding grants of land.
October 26 1885	Petition in re Lands lying between lines of the Stratton and Von Leicht Surveys.	Petition of George Hearst, J.B.Haggin, E.B. Mastick. The Savings & Loan Society, and the Spring Valley Water Co., representing that a strip of land about 980 feet wide by two miles long, bounded by the Pacific Ocean on the West, the San Miguel Rancho on the East, the Patent line on the North, and Stratton's Four League line and the Merced Rancho on the South, was left out of the Pueblo Lands as Patented, which had been included within the Pueblo by the Stratton Survey. That in 1870 the City and County, under existing laws, conveyed portions of said land to E.B. Mastick, Robinson & Casselli, J.B.Felton, E.W. Burr and Paul Rousset, and received from said persons deeds for the streets, school lots, engine lots, and public squares within said limits. That as successors in interest of these persons they are, with the City and County, the equitable owners of this strip of land, but the legal title still remains in the United States, Therefore requesting the Board of Supervisors to assist in procuring Congressional action to enable the General Land Office to pass the title of the United States of the strip of land described to the several owners.

Date	Number of Proceeding	Nature of Proceeding, Also Decision, etc.

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
November 2 1885	Resolution No. 18491, N.S.	Authorizing the City and County Attorney to represent the City and County in all proceedings which may be found necessary to procure the confirmation of the title to the strip of land bounded by the Patent Line (Von Leicht Survey) on the North, Stratton's Line on the South, the Ocean on the West and the San Miguel Rancho on the East, and requesting our representatives in Congress to act in concert with the attorneys for the private land owners (the City's reservations amounting to 88.8 acres) in all necessary steps required to perfect the title to said lands.
December 1 1885	Resolution No. 18552, N.S.	Contract awarded to Bunker & Heister to publish Official Advertisements in the San Francisco Daily Report.
May 19, 1886	Application to set aside the Patent.	Notice served upon Washington Bartlett, Mayor, of an application filed in the Department of the Interior to set aside and vacate the Patent of Pueblo Lands issued to the City by the United States and accepted by the City and County.
June 2, 1886	Resolution No. 18873, N.S.	Requesting the City and County Attorney to proceed to Washington, D.C., to represent the City and County in the matter of the Pueblo Survey and the Patent to the land of the Pueblo before the Secretary of the Interior, on June 25, 1886, and before any other Department or tribunal in which the City's title to Pueblo Lands may be questioned,
June 26, 1886	Hearing of Application to set aside the Patent of Pueblo Lands.	In the Department of the Interior, Washington, D.C., the application to set aside and vacate the Patent for Pueblo Lands issued to the City was taken up and heard. John Lord Love, Esq., appeared for the City and County, and the case was submitted on briefs.
June 28, 1886	Resolution No. 18931, N.S.	Whereas, The growth and prosperity of the City and County of San Francisco until the issuance of the Patent by the President of the United States of the Pueblo Lands to the City of San Francisco, conforming to the Von Leicht Survey, was seriously impeded and retarded by the uncertainty of titles to land in certain portions of the City, and; Whereas, Since the issuance of said Patent, relying on the good faith of the Federal Government that such survey was a finality of the questions in dispute, millions of dollars have been expended in the Southern portion of the City on the tide or marsh lands bordering on Mission Creek and lands

PROCEEDINGS IN RELATION TO OUTSIDE LANDS

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
		adjacent thereto, transforming previously unoccupied districts into a hive of industry by the establishment of large manufacturing and industrial enterprises; and Whereas, It would be exceedingly detrimental to the progress and well-being of the City, as well as grossly injurious, unfair and unjust to property owners, to reopen the question of the boundaries of the Pueblo Lands after they have been so satisfactorily adjusted and adjudicated; and Whereas, The parties now seeking an order from the Department of the Interior, for a re-survey of the Pueblo Lands, or their grantors, had a full and ample opportunity of establishing their claims before the Department of the Interior previous to the setting aside of the Stratton Survey, and such claims were fully considered; and Whereas, The issuance of a Patent by the Executive of the United States has heretofore been regarded as unimpeachable, except in cases of fraud, collusion, or other dishonesty; be it therefore Resolved, By the Board of Supervisors of the City and County of San Francisco, as representing the interests of the whole body of citizens of thenCity of San Francisco, that this Board views with alarm the attempt now being made before the Interior Department to set aside the Von Leicht Survey, as subversive of the well established principles of res adjudicata. That the present attempt to re-open said survey is not in the interest of the great body of citizens, but emanates directly from speculators and others who hope to reap a profit by unsettling titles to real estate covered with improvements made by actual occupants, who in many instances have invested the whole of their worldly possessions upon them. That any survey not following the principles and lines of the Von Leicht Survey would divest the City itself of lands upon which the municipality has expended four hundred thousand dollars in improvements necessary to the health of the community and divert said lands of the value of at least two hundred thousand dollars to speculators and others as aforesaid; and Resolved, further, That a copy of this resolution, duly attested, be forwarded by telegraph by His Honor Mayor Bartlett to Hon. L.Q.C.Lamar, Secretary of the Interior.
November 22 1886	Resolution No.19164, N.S.	Contract awarded to Bunker & Heister to publish Official Advertisements during the year 1887 in the San Francisco Daily Report.

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc
December 20 1886	Act of Congress (24 U.S.Stats. at Large, 551)	"An Act to relinquish the Interest of "the United States in certain lands to "the City and County of San Francisco "and their grantees."
January 3, 1887	Committee on Outside Lands	Supervisors A.F.Knorp, Colin M.Boyd, Wm.P. Lambert, Sargent S.Morton and Hugh Curran appointed Committee on Outside Lands.
March 12, 1887	Decision of Secretary of the Interior.	Decision of Hon.L.Q.C.Lamar, Secretary of the Interior, that there is no power in the Department to recall the Patent of the Pueblo Lands issued to the City of San Francisco, and that the matters presented for consideration in the past proceedings of the case do not justify any recommendation to the legal department of the Government to recall or modify, or in any manner to interfere with said Patent.
March 26, 1887	Patent. (Munic.Reps. 1892-93, A.p. 270.)	"Patent of the Addition to the Pueblo Lands "issued by the Government of the United "States of America to the City and County "of San Francisco, December 20, 1886." Recorded in the General Land Offife in Vol.12, pp.501 to 507 inclusive. Recorded in the Office of the County Recorder of the City and County of San Francisco in Liber 1 of Patents, page 142.
January 1888	Committee on Outside Lands	Supervisors A.F.Knorp, Colin M.Boyd, W.P. Lambert, S.S.Morton and Hugh Curran appointed Committee on Outside Lands.
January 1889	Committee on Outside Lands	Supervisors L.R.Ellert, J.M.McDonald, P.Noble, Jos.Pescia and Colin M. Boyd, appointed Committee on Outside Lands.
January 1890	Committee on Outside Lands	Supervisors L.R.Ellert, P.Noble, Jos.Pescia, Colin M. Boyd and Selden S.Wright appointed Committee on Outside Lands.
December 11 1890	Order No.2309	Changing name of Lands lying North of Golden Gate Park to "Richmond District" and obliterating name of "Outside Lands" from Official Map of that portion.
January 1891	Committee on Outside Lands	Supervisors J.W.Burling, J.B.Curtis, L.R. Ellert, P.J.Coffee and Albert Heyer appointed Committee on Outside Lands.
October 1891	Decision of U.S.Supreme Court	Decision by Lamar, J. in Knight vs The United Land Association, et al. and concurring opinion of Field, J. settling the Pueblo Lands boundaries in regard to Mission Creek.
January 1892	Committee on Outside Lands	Supervisors J.W.Burling, J.B.Curtis, L.R. Ellert, P.J.Coffee and Albert Heyer appointed Committee on Outside Lands

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
January 1893	Committee on Outside Lands	Supervisors S.W.Forman, Danl.Rogers, Jas. Ryan, J.I.Stanton and M.Goodwin appointed Committee on Outside Lands.
January 1894	Committee on Outside Lands	Supervisors S.W.Forman, Danl.Rogers, Jas. Ryan, J.I.Stanton and M.Goodwin appointed Committee on Outside Lands.
January 1895	Committee on Outside Lands	Supervisors P.A.Scully, A.W.Morgenstern, E.L.Wagner, Jos.King and C.L.Taylor appointed Committee on Outside Lands.
January 1896	Committee on Outside Lands	Supervisors C.E.Benjamin, A.B.Spreckels, E.L.Wagner, A.Hirsch and Jos.King appointed Committee on Outside Lands.
January 1897	Committee on Outside Lands	Supervisors Thos.Morton, C.A.Clinton, Washington Dodge, P.M.Delany and John Lackmann appointed Committee on Outside Lands.
January 1898	Committee on Outside Lands	Supervisors Thos.Morton, C.A.Clinton, Washington Dodge, P.M.Delany and John Lackmann appointed Committee on Outside Lands.
January 1899	Committee on Outside Lands	Supervisors Jeremiah Deasy, L.F.Byington, Edw.L.Perrault, John Lackmann and Howard Black appointed Committee on Outside Lands.
July 6, 1899	Order No.199	"Establishing and adopting a Official Map "of the City and County of San Francisco." Adopting "Tilton Map."
January 1900	Committee on Outside Lands	Supervisors H.J.Stafford, Chas.Boxton and Geo.R.Sanderson appointed Committee on Outside Lands.
January 8, 1900	Charter	Charter of the City and County of San Francisco went into effect. (Board of Freeholders elected December 27, 1897, in pursuance of Section 8, Article XI, California State Constitution. Ratified by vote of the paople, May 26, 1898. Approved by the State Legislature, January 26, 1899.) Amended at Special election December 4, 1902 (in effect February 5, 1903); Amended November 5, 1907 (in effect November 22 and 23, 1907.)
March 21, 1900	Opinion of City Attorney (Opinions of City Atty. 1899-1902, p. 206.)	Holding that evidence required in support of matters set forth in petitions for City deeds to Outside Lands need not be elaborate, but only such as will satisfy the mind of the Board that the statements made in the petition are true.
January 1901	Committee on Outside Lands	Supervisors H.J.Stafford, Chas.Boxton and Geo.R.Sanderson appointed Committee on Outside Lands
January 1902	Committee on Outside Lands	Supervisors Fred.Eggers, Henry Payot and Geo.B.McClellan appointed Committee on Outside Lands.

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.
January 1903	Committee on Outside Lands	Supervisors Fred Eggers, Henry Payot and Geo. B. McClellan appointed Committee on Outside Lands
January 1904	Committee on Outside Lands	Supervisors Fred Eggers, Henry Payot and A. Comte, Jr., appointed Committee on Outside Lands.
January 1905	Committee on Outside Lands	Supervisors Fred Eggers, Henry Payot and A. Comte, Jr., appointed Committee on Outside Lands.
January 1906	Committee on Outside Lands	Supervisors C. J. Harrigan, Chas. Boxton and J. J. Phillips appointed Committee on Outside Lands.
April 18-19 1906	Destruction of Records.	All records contained in the Public Offices of the City and County of San Francisco were destroyed by the conflagration of April 18, 19 and 20, 1906.
January 1907	Committee on Outside Lands	Supervisors C. J. Harrigan, Chas. Boxton and J. J. Phillips appointed Committee on Outside Lands.
July 29, 1907	Committee on Outside Lands	On the resignation and removal of the Board of Supervisors known as the "Schmitz Board" and after the appointement of the succeeding members of the Board, Supervisors Geo. Center, Matt. I. Sullivan and O. A. Tveitmoe were appointed a Committee on Outside Lands.
January 1908	Committee on Outside Lands	Supervisors Geo. Center, Jas. P. Booth and M. Hall McAllister appointed Committee on Outside Lands.
January 6, 1908	Report of Committee on Outside Lands	Stating that, owing to the destruction of the Records, it was impossible to verify the statements made in petitions for City Deeds and recommending that all applications for city deeds and amended city deeds be denied.
January 6, 1908	Resolution No. 1785, N. S.	Denying applications for City Deeds upon ground of insufficiency of evidence as recommended by report of Committee.

PROCEEDINGS IN RELATION TO OUTSIDE LANDS.

Date	Character of Proceedings	Nature of Decisions, Acts, Orders, etc.

M E M O R A N D U M

AN ACT
TO
CHARTER
THE
CITY OF SAN FRANCISCO

PRINTED AT THE ALTA CALIFORNIA OFFICE
1850.

City Charters.

The following resolution calling for the decision of the voters of San Francisco upon the charters herewith submitted to them, was adopted by the unanimous vote of the Common Council, on he 30th of Jan., A.D. 1850:

Resolved, That the committee on judiciary be authorized to have the foregoing charter printed in one or more of the public papers of this City, and 500 copies printed, in pamphlet form, and circulated throughout the city, and that the people of San Francisco shall be requested, on the 2nd of February, at the election for State Senator, to vote for or against the Charter.

An Act to Charter the City of San Francisco.

The People of the State of California represented in Senate and Assembly, do enact as follows:

Section I. The limits of the City of San Francisco shall be within ships channel of the bay pf San Francisco, and presidio line upon the West, to Mission Creek, and by and with Mission Creek upon the South.

Sec. 2. The legislative power of the corporation of San Francisco shall be vested in aboard of councilmen, to be denominated the Common Council of the City of San Francisco.

Sec.3. The judiciary authority of the corporation shall be vested in a recorder, to be chosen annually by the people who shall have jurisdiction in all cases of a breach of city ordinance, and be vested with the powers, in civil and criminal matters, of a justice of the peace.

Sec. 4. The executive authority of the corporation shall be vested in a mayor who shall be chosen annually.

Sec. 5. The City of San Francisco shall be divided into four wards. Each ward shall elect three councilmen, and the persons so elected shall compose the common council.

Sec. 6. Every one entitled to the right of suffrage, under the constitution of the state , who shall have been a resident of San Francisco three mobths preceding any election for charter officers, shall be entitled to vote in the ward in which he resides.

Sec. 7. It shall be the duty of the ayuntamiento of San Francisco, in office at the passage of this charter, to cause the city to be equally divided into four wards, and the council elected under the charter shall have power to increase or alter the number of wards or councilmen, by a vote of two thirds of the members elected, provided said alteration shall be made three months previous to the annual election of charter officers.

Sec. 8. Each ward shall be entitled to elect one assessor, and the persons so elected shall constitute a board of assessors.

Sec. 9. The councilmen and assessors shall be chosen for one year, and no person shall be eligible to the office of councilman or assessor unless he shall, at the time of his election, be a resident of the ward for which he is chosen.

Sec. IO. The executive business of the corporation shall be performed by district departments, the heads of which shall be chosen annually, at the election of the charters officers, and shall be denominated the comptroller treasurer, street commissioner, collector of city taxes, city marshal, police, fire and surveyors departments, the subordinates or assistants of all which said offices shall be nominated by the chief of each department and confirmed by the council-- except the policeman of each ward, who shall be nominated by the councilman of each respective ward, and be confirmed by the mayor, and such subordinates shall be paid such annual salary as the council shall, from time to time, fix by ordinance.

[illegible]

Sec. II. The annual election for charter officers, shall be holden on the and the officers elected shall be sworn into office on the and the oath of the office may be administered unto them by any judge or toher person, entitled by the laws of t e State to administer oaths: and all the provisions of law now in force with regard to the notification, duration and conduct of the elections for members of the assembly, and in regard to the appointments, powers and duties of inspectors holding the same, shall apply to the election of charter officers.

Sec. 12. The first election for charter officers, after the adoption of this charter, shall be holden on the A.D. 1850/, and all persons who shall have been elected under the former laws regulating the election of alcalde and town councilman, and shall be in office at the time of the adoption of this charter, shall continue in office until the officers under it shall be sworn into office, and shall have power to organize the various departments herein provided for, subject to the future alteration of the Common Council.

Sec. 13. It shall be the duty of the Common Council to elect annually a chairman from its own body, and a majority of the council so elected, shall at all times constitute a quorum to do business. They shall have power to elect a clerk, register of deeds, city attorney, and such other officers not provoded for by this charter, as they may deem necessary, and shall define the duties and affix the fees and salaries of all officers elected or appointed by this charter. They shall have the power to determine the rule of their own proceedings; be the judge of the qualifications of their members. They shall keep a journal of their own proceedings, which shall be open at all times for the inspection of the public. The doors of the council shall be kept open, except in cases where the public welfare shall require secrecy.(sic) And all the resolutions and reports of committees, which shall recommend the appropriation of public moneys, taxing or assessing the citizens of San Francisco shall be published immediately after the adjournment of the board, under the authority of the common council, in one or more of the public papers of the City.

Sec. 14. The corporation of San Francisco shall have power to pass all needful ordinances with regard to health, order, cleanliness, improvements government police, the general welfare and the regulation of commonc schools of the city; to levy and collect a tax upon real and personal estate or property, provided said tax does not exceed two (2) per cent, upon the assessed value of said property, and also to tax and license all trades and business professions, games of chance, public shows, theatrical exhibitions, conducted within its limits for the purpose of defraying the expense of the municipality and the improvements of its streets, highways, and other public property. And the common council shall annually cause an estimate of the expenses of the current year to be made by each department and the purpose for which the appropriations are designed.

Sec. 15. The common council shall have power to direct a special election to fill the place of any councilman or officer elected or appointed by this charter, except the mayor, whose seat shall become vacant by death, resignation, removal or otherwise; and in such case the person so elected to supply such vacancy, shall hold his seat only for the residue of the term of office of his immediate predecessor.

Sec. 16. The council shall have power to compel the attendance of absent members, and to punish its members for disorderly conduct, and to expel members with the concurrence of two-thirds of the members elected, and the members so expelled shall by such expulsion forfeit all his right and powers as a councilman.

Sec. 17. The stated and occasional meetings of the common council, shall be regulated by its own ordinances.

Sec. 18. No member of the Common Council shall during the period for which he is elected, be directly or indirectly interested in any contract the expenses of which are to paid from the public treasury, but this section is not to be construed so as to deprive any councilman of any emolument or fee which he shall be entitled to by virtue of his office.

Sec. 19. Every act, resolution or ordinance which shall have passed the common council, before it shall take effect, shall be presented duly certified, to the mayor of the city for his approbation; if he approve it, he shall sign the same, if not he shall return it to the common council, with his objections within ten days thereafter; or, if the council be not in session, at its next regular meeting, upon the return of any ordinance, bill, or resolution, the council shall cause the objections to be entered on their journal.

Sec. 20. The common council shall, in not less than ten days after the return of any bill to them by the mayor, proceed to reconsider the same; if, after such consideration, a majority of the members of the council elect shall approve the original bill, or the bill as amended by the mayor, it shall take effect as a law or ordinance of the council. In all such cases the vote shall be taken by the ayes and noes, the names of the persons voting for or against the passage of the measure reconsidered, shall be entered upon the journal of the council.

Sec. 21. If the mayor should not return any act or ordinance, or resolution, so presented to him, in the time specified, it shall take effect in the same manner as though it had been signed by him.

Sec. 22. Whenever there shall be a vacancy in the office of mayor, and whenever the mayor shall be absent from the city, and shall be prevented, by sickness or any other cause from attending to the duties of his office, the president of the common council shall act as mayor, and possess all the rights and powers of the mayor during such vacancy, absence or disability.

Sec. 23. It shall be the duty of the mayor,

Ist. To communicate to the common council at least once a year, and oftener if he shall deem it expedient, a general statement of the situation and condition of the city in relation to its government, finances, and improvements.

2nd.. To recommend to the adoption of the common council all such measures connected with the police, security, health, cleanliness, and ornament of the city, as he shall deem expedient.

3d. To be vigilant and active in causing the laws and ordinances of the government of the city to be duly executed and enforced.

4th. To exercise a constant supervision and control over the conduct and acts of all subordinate officers, and to receive and to examine into all such complaint as may be proferred against any of them for violation or neglect of duty, and generally to perform all such duties as may be prescribed to him by the charter and city ordinances and the laws of this State and the United States.

Sec. 24. Annual and occasional appropriations shall be made by proper ordinances of the common council for every branch and object of city expenditures; nor shall any moneys be drawn from the city treasury except the same shall have been previously appropriated to the purpose for which it was drawn.

Sec. 25. The common council shall not have authority to borrow any sums of money whatsoever on the credit of the corporation, except in anticipation of the revenue of the year in which such loan shall be made, unless authorized by a special act of the legislature.

Sec. 26. It shall be the duty of the common council to publish, two months before the annual election of the charter officers in each year, for the general information of the citizens of San Francisco, a full and detailed statement of the receipts and expenditures of the corporation, during the year ending on the first day of the month in which such publication was made, and in every such statement the different sources of the city revenue and the amount received from each, the several appropriations made by the common council, the object for which the same was made, and the amount of moneys expended under each, the moneys borrowed on the credit of the corporation, the authority under each loan was made, and the terms on which was obtained, shall be clearly and particularly specified.

Sec. 27. It shall be the duty of the common council to provide for the accountability of all officers and other persons to whom the receipt and expenditure of the funds of the city shall be entrusted, by requiring from them sufficient security for the performance of their duties or trust, which security shall be annually renewed; but the security first taken shall remain in force until new security shall be given.

Sec. 28. The legislature may at any time alter or amend this charter provided such alteration may be called for by a majority of two-thirds of the members elected to the common council, and the amendments proposed shall be approved by a majority of the legal voters of San Francisco.

AN ACT TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

(March 3,1851)

BE IT ENACTED BY THE SENATE AND THE HOUSE OF REPRESENTATTIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That for the purpose of ascertaining and settling private land claims in the State of California,a commission shall be, and is hereby, constituted, which shall consist of three commissioners, to be appointed by the President of the United States, by and with the advice and consent of the Senate,which commission shall continue for three years from the date of this act, unless sooner discontinued by the President of the United States.

Sec. 2. AND BE IT FURTHER ENACTED, That a secretary, skilled in the Spanish and English languages, shall be appointed by the said commissioners whose duty it shall be to act as interpreter, and to keep a record of the proceedings of the Board in a bound book, to be filed in the office of the Secretary of the Interior on the termination of the commission.

Sec. 3. AND BE IT FURTHER ENACTED, That such clerks, not to exceed five in number, as may be necessary, shall be appointed by the said commissioners.

Sec. 4. AND BE IT FURTHER ENACTED,That it shall be lawful for the President of the United States to appoint an agent learned in the law, and skilled in the Spanish and English languages, whose special duty it shall be to superintend the interests of the United States on the premises, to continue him in such agency as long as the public interests may, in the judgment of the President require his continuance,and to allow him such compensation as the President shall deem reasonable. It shall be the duty of the said agent to attend the meetings of the Board, to collect testimony in behalf of the United States, and to attend on all occasions when the claimant, in any case before the Board shall take depositions; and no deposition taken by or in behalf of any such claimant shall be read in evidence in any case, whether before the commissioners, or before the District or Supreme Court of the United States, unless notice of the time and place of taking the same shall have been given in writing to said agent, or to the District Attorney of the proper district, so long before the time of taking the deposition as to enable him to be present at the time and place of taking the same, and like notice shall be given of the time and place of taking any deposition on the part of the United States.

Sec. 5. AND BE IT FURTHER ENACTED, That the said commissioners shall hold their sessions at such times and places as the President of the United States shall direct, of which they shall give due and public notice; and the marshal of the district in which the board is sitting shall appoint a deputy whose duty it shall be to attend upon the said board and who shall receive the same compensation as is allowed to the marshal for his attendance upon the District Court.

Sec. 6. AND BE IT FURTHER ENACTED, That the said commissioners when sitting as a board, and each commissioner at his chambers, shall be, and are, and is hereby, authorized to administer oaths, and to examine witnesses in any case pending before the commissioners, that all such testimony shall be taken in writing, and shall be recorded and preserved in bound books to be provided for that purpose.

Sec. 7. AND BE IT FURTHER ENACTED, That the secretary of the Board shall be, and he is hereby, authorized and required, on the application of the law agent or district attorney of the United States, or of any claimant or his counsel, to issue writs of subpoena commanding the attendance of a witness or witnesses before the said board or any commissioner.

Sec. 8. AND BE IT FURTHER ENACTED, That each and every person claiming lands in California by virtue of any right or title derived from the

Spanish or Mexican government, shall present the same to the said commissioners when sitting as a Board, together with such documentary evidence and testimony of witnesses as the said claimant relies upon in support of such claims; and it shall be the duty of the commissioners, when the case is ready for hearing, to proceed promptly to examine the same upon such evidence, and upon the evidence produced in behalf of the United States, and to decide upon the validity of the said claim, and, within thirty days after such decision is rendered, to certify the same, with the reasons on which it is founded, to the district attorney of the United States in and for the district in which such decision shall be rendered.

Sec. 9. AND BE IT FURTHER ENACTED, That in all cases of the rejection or confirmation of any claim by the board of commissioners, it shall and may be lawful for the claimant or the district attorney, in behalf of the United States, to present a petition to the District Court of the district in which the land claimed is situated, praying the said Court to review the decision of the said commissioners, and to decide on the validity of such claim; and such petition, if presented by the claimant, shall set forth fully the nature of the claim and the names of the original and present claimants, and shall contain a deraignment of the claimant's title, together with a transcript of the report of the board of commissioners, and of the documentary evidence and testimony of the witnesses on which it was founded; and such petition, if presented by the district attorney on behalf of the United States, shall be accompanied by a transcript of the report of the board of commissioners, and of the papers and evidence on which it was founded, and shall fully and distinctly set forth the grounds on which the said claim is alleged to be invalid, a copy of which petition, if the same shal l be presented by a claimant, shall be served on the district attorney of the United States, and if presented in behalf of the United States shall be served on the claimant or his attorney; and the party upon whom such service shall be made shall be bound to answer the same within a time to be prescribed by the judge of the District Court; and the answer of the claimant to sucn petition shall set forth fully the nature of the claim, and the names of the roiginal and present claimants, and shall contain a deraignment of the claimant's title; and the answer of the district attorney in behalf of the United States shall fully and distinctly set forth the grounds on which the said claim is alleged to be invalid, copies of which answers shall be served upon the adverse party thirty days before the meeting of the Court, and thereupon at the first meeting of the court thereafter, the said case shall stand for trial, unless, on cause shown, the same shall be continued by the court.

Sec. 10. AND BE IT FURTHER ENACTED, That the District Court shall proceed to render judgment upon the pleadings and evidence in the case, and upon such further evidence as may be taken by order of the said court, and shall, on application of the party against whom judgment is rendered, grant an appeal to the Supreme Cpurt of the United States, on such security for costs in the District and Supreme Court, in case the judgment of the District Court shall be affirmed, as the said court shall prescribe; and if the court shall be satisfied that the party desiring to appeal is unable to give such security, the appeal may be allowed without security.

Sec 11. AND BE IT FURTHER ENACTED, That the commissioners herein provided for, and the District and Supreme Courts, in deciding on the validity of any claim brought before them under the provisions of this act, shall be governed by the treaty of Guadaloupe Didalgo, the law of the nations, the laws, usages, and customs of the government from which the claim is derived, the principles of equity, and the decisions of the Supreme Court of the United States, so far as they are applicable.

Sec. 12. AND BE IT FURTHER ENACTED, That to entitle either party to a review of the proceedings and decision of the commissioners hereinbefore provided for, notice of the intention of such party to file a petition to the District Court shall be entered on the journal or record of proceedings of the commissioners within sixty days after their decision on the claim has been made and notified to the parties, and such petition shall be filed in the District Court within six months after such decision has been rendered.

Sec. 13. AND BE IT FURTHER ENACTED, That all lands, the claims to which have been finally rejected by the commissioners in manner herein provided

or which shall be finally decided to be invalid by the District or Supreme Court, and all lands the claims to which shall not have been presented to the said commissioners within two years after the date of this act, shall be deemed, held, and considered as part of the public domain of the United States; and for all claims finally confirmed by the said commissioners, or by the said District or Supreme Court, a patent shall issue to the claimant upon his presenting to the general land office an authentic certificate of such confirmation, and a plat or survey of the said land, duly certified and approved by the surveyor-general of California, whose duty it shall be to cause all private claims which shall be finally confirmed to be accurately surveyed, and to furnish plats of the same; and in the location of the said claims, the surveyor-general shall have the same power and authority as are conferred on the register of the land office and receiver of the public moneys of Louisiana, by the sixth section of the act "to create the office of surveyor of public lands for the State of Louisana", approved third March, one thousand eight hundred and thirty-one:PROVIDED, ALWAYS, That if the title of the claimant to such lands shall be contested by and other person, it shall and may be lawful for such person to present a petition to the District Judge of the United States for the district in which the lands are situated, plainly and distinctly setting forth his title thereto, and praying the said judge to hear and determine the same, a copy of which petition shall be served upon the adverse party thirty days before the time appointed for hearing the same. AND, PROVIDED FURTHER, That it shall and may be lawful for the district judge of the United States, upon the hearing of such petition, to grant an injunction to restrain the party at whose instance the claim to the said lands has been confirmed, from suing out a patent for the same, until the title thereto shall have been finally ~~xxxxxx~~ decided, a copy of which order shall be transmitted to the commissioner of the general land office, and thereupon no patent shall issue until such decision shall be made, or until sufficient time shall, in the opinion of the said judge, have been allowed for obtaining the same; and thereafter the said injunction shall be dissolved.

Sec. 14. AND BE IT FURTHER ENACTED, That the provisions of this act shall not extend to any town lot, farm lot, or pasture lot, held under a grant from any corporation or town to which the lands may have been granted for the establishment of a town by the Spanish or Mexican government, or the lawful authorities thereof, nor to any city , or town, or village lot, which city, town or village existed on the seventh day of July, eithteen hundred and forty-six; but the claim for the same shall be presented by the corporate authorities of the said town, or where the land on which the said city, town or village was originally granted to an individual, the claim shall be presented by or in the name of such individual, and the fact of the existence of the said City, town or village on the seventh July, eighteen hundred and forty-six, being duly proved shall be prima facie evidence of a grant to such corporation, or to the individual ~~xxxxxxxx~~ under whom the said lotholders claim; and where any city, town or village shall be in existence at the time of passing this act, the claim for the land embraced within the limits of the same may be made by the corporate authority of the said city, town or village.

Sec. 15. AND BE IT FURTHER ENACTED, That the final decrees rendered by the said commissioners, or by the District or Supreme Court of the United States, or any patent to be issued under this act, shall be conclusive between the United States and the said claimants only, and shall not affect the interests of third persons.

Sec. 16. AND BE IT FURTHER ENACTED, That it shall be the duty of the commissioners herein provided for to ascertain and report to the Secretary of the Interior the tenure by which the mission lands are held, and those held by civilized Indians, and those who are engaged in agriculture or labor of any kind, and also those which are occupied and cultivated by Pueblos or Rancheros Indians.

Sec. 17. AND BE IT FURTHER ENACTED, That each commissioner appointed under this act shall be allowed and paid at the rate of six thousand dollars per annum; that the secretary of the commissioners shall be allowed and paid at the

rate of four thousand dollars per annum; and the clerks herein provided for shall be allowed and paid at the rate of one thousand five hundred dollars per annum; the aforesaid salaries to commence from the day of the notification by the commissioners of the first meeting of the board.

Sec. 18. AND BE IT FURTHER ENACTED, That the secretary of the board shall receive no fee except for furnishing certified copies of any paper or record, and for issuing writs of subpoena. For furnishing certified copies of any paper or record, he shall receive twenty cents for every hundred words and for issuing writs of subpoena, fifty cents for each witness; which fees shall be equally divided between the said secretary and the assistant clerk.

APPROVED, March 3, 1851.

PETITION FOR PUEBLO GRANT.

July 1, 1852

TO THE HON. THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE PRIVATE LAND CLAIMS IN CALIFORNIA.

The petition of the City of San Francisco, a municipal corporation of the said State of California, respectfully shows:

That the said city claims a tract or parcel of land situated in the county of San Francisco, State aforesaid, and being so much of the peninsula whereon the said city is located as will contain an area equal to four leagues square; said parcel or tract being bounded on the north and east by the waters of the bay of San Francisco, on the west by the Pacific Ocean, and on the south by a due east and west line, inclusing the area aforesaid.

In pursuance of the laws, usages and customs of the government of Mexico, and an act of the Department Legislature of California, of November 9, 1833, and proceedings in pursuance thereof, the pueblo of San Francisco was duly erected and constituted a municipal corporation, with a municipal government, and with all the rights, properties and privileges of pueblos under the then existing laws during the said year 1833; and there was then andt there by the supreme government, in the manner by law prescribed, ceded and granted to the said pueblo for town lands and for common lands, all and singular, the premises herein first described.

The said pueblo continued and was the proprietor of all and singular the said premises (except so much thereof as had been granted by the authorities of said pueblo in pursuance of law,) and the said pueblo continued in existence as such municipality and proprietor until and after the accession of the government of the United States, July 7, 1846, and until by an act of the Legislature of the State of California, entitled an act to incorporate the city of San Francisco, the inhabitants and property of said pueblo were incorporated into a city, which city is now here exhibiting her claim to the premises aforesaid. The said act of the Legislature of the State of California is prayed to be taken and read as a part of this petition. The same act was modified and changed by an act of the same Legislature, passed A.D., which is also asked to be taken and read as a part of this petition.

On the 7th of July, A.D., 1846, the then pueblo, now city of San Francisco, was a town of the population of about one thousand inhabitants, and on the 3rd of March, A.D., 1851, the population thereof amounted to about thirty thousand persons, and that on the said 7th of July, and on said third of March, the said pueblo or city, under and by virtue of the grant aforeaaid, and under and by virtue of the laws, usages, and customs of the government of Mexico and California, all and singular the premises aforesaid, except as aforesaid, were part and parcel of the land and premises of said pueblo or city.

There are several adverse claims to the one herein set forth.

One Jose de Jesus who claims one square league, part of said premises, as particularly appears by his petition therfor now before your Board, numbered thirty on the docket of claims. That Jacob Luis Leese and Salvador Vallejo claim two hundred varas square, part of said premises, which claim is particularly exhibited in the petition therefor befor your Board, numbered 74 on the docket of claims. That James R. Bolton claims three square leagues (with exceptions) part of said premises, which claim particularly appears in his petition before your Board, and numbered 81 according to the docket of claims. That Josefa de Haro and others, the "Potrero of San Francisco" being one half square league, part of said premises, the particulars whereof appear in third claim before your Board, number 101 of the docket of claims.

That John F. Shultess, and others, claim thirty-seven vara lots, part of said premises, particularly described in his petition, on file with your Board, and numbered 171 according to docket of claims. That the said John F. Shultess also claims forty-seven other fifty vara lots, part of said premises, particularly described in his petition before your Board, and numbered 172 of claims.

That Josefa de Haro and others, claim premises known as the "Laguna de la Merced" one league long and one half league wide, and particularly described in their petition before your Board, numbered 102 of claims, and which is also part of premises herein first described.

That one Thomas O. Larkin claims a tract of land, parcel of said premises, and including a portion of the incorporated limits of the City of San Francisco to the west, and running thence westerly along the waters of the bay to the Pacific Ocean, including the site of the Presidio, the quantity or particular description of his claim this claimant is unable to state. That Charles V. Stuart and Issac N. Thorne claim a portion of said premises, known as Ridley's ranch, under a grant to Jacob P. Leese of one league and one half, siatuated contiguous to and north of the Sanchez ranch, but a particular description thereof cannot be given by claimant.

The claimant represents to your Honorable Board that all and singular the foregoing adverse claims are insufficient and void. That all of them are made subsequent to theestablishment of the pueblo of San Francisco, and that the grants thereof were in the derogation of the lawful claim and right of the said pueblo. That some of them were made after the authority of the government of Mexico in the Department of California had been superceded by the authority of the government of the United States, that such is the fact particularly in the case of the lands claimed by James R. Bolton, as aforesaid, and in the case of the lands claimed by Thomas O. Larkin as aforesaid; also in the case of the lands claimed as aforesaid by John F. Shultess and others, and by John F. Shultess. That all said claims are based upon grants made without authority of law, and in direct violation of the laws and regulations of the government of Mexico in force in California.

The said City of San Francisco now insists that by the Treaty of Guadalupe Hidalgo, the laws of nations, and the laws usages and customs of the government of Mexico, in force in California, as also by force of the act of Legislature of said State incorporating the said city, and the act of Congress of the United States, entitled, "an act to settle the private land claims in the state of California," approved March 3, 1851, the said city has good and lawful claim to all and singular the premises aforesaid, and said city relies upon the said laws, usages and customs, and proceedings in pursuance thereof, upon the order made for the establishment of the pueblo of San Francisco, the record of other evidences of its existence, continuance and extent the grant to said pueblo as aforesaid, and upon such other evidence as may be adduced, touching the premises, upon a full exhibition and consideration of all which premises it is prayed that such be confirmed.

J. A. McDOUGALL,

For the City of San Francisco.

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From THE SAN FRANCISCO DAILY HERALD, Vol.III. San Francisco, Thursday, July 8, 1852. No.37.

"Land Commission Claims Presented Since Our Last Report.

"By J.A.McDougall - No.280 - of City of San Francisco to 'City of "'San Francisco and County,' four square leagues; granted in 1833; "original claimant Pueblo de San Francisco."
(Herald, July 8, 1852, p.1, Col.1.)

POINTS OF FACTS AND PROOFS

IN REGARD TO

LAND CLAIM NO. 280,
of the

CITY OF SAN FRANCISCO

before the

BOARD OF UNITES STATES LAND COMMISSIONERS.

SAN FRANCISCO.

Whitton, Towne & Co. Printers, Excelsior Job Office, No. 151 Clay Street,

Thidr Door below Montgomery.

1854.

POINTS OF FACT.

I. There was a Pueblo established in 1834, by the action of the Legislative and Executive authorities, on the Bay of San Francisco, where the City of San Francisco now stands.

PROOFS.

I. Document No. I, dated November 4, 1834, attached to Vallejo's deposition; a communication from Governor Figueroa to the Military Commandante of "San Francisco," describing the order of the Departmental assembly of the 3rd, requiring the political chief to proceed to the election of the ayuntamiento in in the partido of "San Francisco", composed of an alcalde, two regidos, and sindero procurador.

2. Document No. 2, (Same) showing that the primary election was held at the Presidio under this order on the 7th of December, 1834. And General Vallejo says----that the "election of officers as stated in the above document did take place;" and which by it was fixed for the following Sunday of the same month.

3. Document No. 3, (Same) election return 13th December, 1813; for officers of the Ayuntamiento for the year 1836.

4. Document No. 4, (Same) "Political Government of upper California" declaring the boundaries of the "Pueblo of San Francisco," in accordance with those indicated in the letter of Vallejo of the 24th October, giving them and him to install an Ayuntamiento in that Pueblo, signed Jose Figueroa.
Vallejo -- "In 1834, I received a paper from Governor Figueroa, designating the boundaries of the 'Pueblo of San Francisco'. I have examined document, exhibit No. 4, and, to my best recollection it is a copy of the document received by me as above stated. I don't know where the original of this document is, if it is in existence. I put it among the archives of the Pueblo, as I did other documents of that character."

5. Document No. 5, (same) from Governor Figueroa, dated 31st January, 1835, to "Senor Alcalde, Corstl, (sic) de San Francisco Asis", recognizing his appointment of an Alcalde for Contra Costa. Francisco de Hara (sic) was alcalde at this time and resided in the Presidio. Testimony of Sanches.(sic.)

6. Document No. 6, (same) Jose Castro to "Sr. Alcalde de San Francisco de Asis", notifying that the Territorial Deputation in its session of the 22nd of September, had approved that the Ayuntamiento of this Pueblo have power to grant house lots of one hundred varas in the place called Yerba Buena. Dated Monterey, October 26, 1835.

Francisco Sanches, (Sic) a witness for the United States. Question by the counsel for the City. "Look at document No 6, attached to Vallejo's deposition and say what locality is represented in that address."

Answer.--- At that time the Alcalde, to whom it is addressed was at the Presidio. Jose Castro knew well where the place is.

7. Document No. 7, (same) Nicholas Gutierras (sic) to "Sr. Alcalde de San Francisco de Asis;" dated January 19th, 1836, requiring a report from the tribunals of justice.

8. Documents No. 8-9, (Same). Election returns December, 1837 and January, 1838, for election of officers "In the Pueblo of San Francisco de Asis".

9. Document No. IO, (Same). Order of Governor Alvarado, dated June 17th, 1839, directing an election under the law of the 30th November, 1836, of an "Elector" for several "Pueblos by name, among them that of San Francisco. Sec 3 and Sec, 4 shows that reference was made, not to "San Francisco de Asis," but to the "Pueblo" of the "Port" of San Francisco.

IO. Document No. II, (Same.) Governor Micheltorena, on the 14th of November, 1834, (Sic) published an order as coming from the departmental assembly relative to the law of elections and ordering them in the "Pueblo" among others, that of "San Francisco", for the election of a 1st and 2nd Alcalde, Sec.2

II. Document (Sic. No. 12, (Same). "Section of San Francisco", secondary election in the hall of the tribunals for an Alcalde at first nomination was elected for the ensuing year 1845, to take office on the 1st of January, of that year, dated "San Francisco, December 22, 1844," addressed to 'Citizen Juan N. Padillo, Alcalde elect of first nomination.

12. Document No. 13, (Same). Letter of Manuel Jimeno to "Senor Alcalde de San Francisco," dated July 14th, 1844, enclosing an edict establishing companies of militia.

13. Document No. 14, (Same). An from Micheltorena to Ensign Do^{n} Juan Prado Mosa (Sic) to present himself with twelve or fifteen men of his command to "the Alcalde of 1st instance, at Yerba Buena," etc; addressed to "Senor Alcalde de San Francisco," dated IIth March, 1844.

14. Document No. 15, (Same). Letter from Jimeno, dated January 2nd, 1844 addressed to "Senor first Alcalde of the Port of San Francisco, fellow-citizen William Hinkley", who at the time resided in Yerba Buena.

15. Vallejo. "There was a municipal organization of the Pueblo of San Francisco from the period of the election above mentioned (December, 1834,) to the time of the occupation of California by the United States. The partido of San Francisco under the jurisdiction of the Ayuntamiento, comprehended the County on this side of the Bay as far as Los Pulgas, (Sic) and on the other side of the Bay to the rancho of the Peralto's (Sic) and Pinale.(Sic). The jurisdiction of the Ayuntamiento extended only to the limits of the Pueblo. The Partido was under the jurisdiction of civil Alcaldes".

16. Alvasado. "I recollect the circumstances connected with the establishment of the Ayuntamiento of San Francisco. It appears to me the Ayuntamiento was established by the authority of Figueroa. I recollect that the Political chief, Figueroa, with the Territorial Deputation determined to establish an Ayuntamiento in San Francisco, and by virtue of this decree it was established. I knew this place where the City of San Francisco now stands before July, 1846, by the name of the Pueblo of Yerba Buena. At the Presidio in 1834, or about that time, there might have been forty persons,more or less, not including soldiers. I think there was an Alcalde for the first time in 1834. I do not recollect the day or month when the Ayuntamiento began to hold its sessions there, but I believe it was in 1834. The Pueblo of Yerba Buena, was known by the people of the County by the name of Yerba Buena, but by persons who came by sea it was called the Port of San Francisco."

17. Francisco Sanches. "In 1835, the Pueblo of San Francisco was at the Presidio. In 1837, at the Mission.The Plaza spoken of in Document No.3, is at the Presidio. There was a Pueblo there in 1835. The election spoken of in Document No. 2, 7th Dedember, 1834, was for an electoral Junta held at the house of the Commandants. No. 3 relates to a second election held at the same place in December, 1835, for members of Ayuntamiento to succeed."

To the cross interrogatories put by the Counsel of the City, he answered to the first. "The primary election was on the first Sunday of December, 1834. The secondary on the third, and the Ayuntamiento was installed on the 1st of January, 1835." To the second. "The Ayuntamiento was installed by the Commandants. He administered the oath to the Alcalde, and he to the balance. M. G. Vallejo was Commandante." To the third. "The election of 1836, for 1837, was held at the Presidio." To the fourth. "The Ayuntamiento of 1837 held its sessions at the Presidio until about the close of 1837, or beginning of 1838, when they removed to the Mission". to the fifth. "The Ayuntamiento removed to the Mission, the Governor having made ot the Capital of the District; and because the Pueblo being a military post, a Pueblo could not be established there." Question sixth "Look at Document No. 6, attached to Vallejo's deposition, and say what locality is referred to in that address?" Answer. "At the time the Alcalde, to whom it is addressed, was at the Presidio. Jose Castro knew well where the place is. Don Francisco de Haro was Alcalde at San Francisco de Asis in October, 1835. He was Alcalde and presided over the meeting of the Ayuntamiento in 1835. There was no Ayuntamiento at the Mission in 1834

or 1835. The Ayuntamiento held its sessions at the Mission in 1838, and in 1839 it ceased, and the Governor appointed a Justice of the Peace".

18. William A. Richardson, on the 1st day of June, 1836, petitioned the"most illustrious Ayuntamiento, (Sic) for the grant of a hundred Vara lot in Yerba Buena,in front of the Plaza, and the anchorage? of the ships" in which he represents himself as a "citizen and resident of this Port", resolved to establish himself in Yerba Buena, dated at "San Francisco". Richardson's 1st deposition . The paper purporting to be a map, marked exhibit No. 2, with the initials A.F. is the original plan a copy of it was sent to the political Government by order of the same Alcalde de Haro.. I recommended the situation of the limits for the settlement or town of Yerba Buena, to General Figuearoa"-- (Sic.) "There was no other plan adopted by the authorities, but the one here presented marked exhibit No. 2".

19. Document B. session of the Territorial deputation October 31st, 1834, "declaring the just reason which exists for effecting the formation of an Ayuntamiento in the "Port" of San Francisco. Referred to the Committee of Government."

20. Session extraordinary of the 3rd November, 1834,-- "it then passed to the discussion of the report which the Same Committee (Sic) presented, referring to the formation of an Ayuntamiento in "San Francisco." It was put to vote and passed in general. "The Senor political chief should see that the partido of San Francisco, proceed to the election of a constitutional Ayuntamiento, which shall reside in the Presidio of that name" etc.

21. Document C., petition of the inhabitants of the Ranchos North of San Antonio and San Pablo, to be joined in the jurisdiction of San Jose," dated 30th May, 1835. This petition was referred to a Committee of the Territorial deputation, which on the 3rd day of September 1835, reported -- "1st. That this despatch be transmitted to the Ayuntamiento of the Pueblo of San Jose' and "San Francisco" in order that they may give the proper information with regard to the desires expressed in it." "

"2. The information having been obtained, that this dispatch be remitted to this deputation for its final judgment. The excellent deputation approved the two propositions with which the foregoing report of the Committee on Government concludes." And "Don Jose Castro" etc., on the 28th of September, 1835, decreed that the above dispatch be forwarded to Ayuntamiento of the "Pueblo" of San Jose Guadalupe" etc, and that a true copy be sent with a similar object to that of San Francisco, accompanied with a list of the residents of the neighborhood of that "Pueblo".

22. On the 16th of January, 1840, Francisco Guerrero J. P. reciting that he did so by order of the departmental Government dated the 1st of November, 1834, granted to Juan Vioget, a lot 100 be 50 varas in "Yerba Buena" (Sic.) in the place called the "Canutal" to the West of the road to the Mission of San Francisco, being vacant land."

This evidence beyond all question establishes the fact of the existence of a Pueblo where the City of San Francisco now stands, having its commencement in the year 1834. Both, in the parol and written evidence it has been variously denominated. Sometimes by that of the "Pueblo of San Francisco"; "The Port of San Francisco"--- "The Pueblo of the Port of San Francisco"-- "The Pueblo of the Yerba Buena"--- The Pueblo of San Francisco de Assis" and others by that of the "Pueblo of the Mission of San Francisco"Dolores". (Sic.) This diversity so far from questioning maintains the position assumed, that, there was a pueblo within the present limits of the City. And that it was in the place of the port is fully demonstrated, as it is clearly shown not to have been carved out of the Mission land of the Mission of San Francisco Dolores, (Sic,) which, never extended to the "port"; and was in existence and lots granted in 1835, some three years before the Ayuntamiento ever held a session at the Mission.

II. That pueblo was in active existence on the 7th of July, 1846.

PROOFS.

I. Vallejo ----"There was a town on the present site of San Francisco, on the 7th of July, 1846; and there was on the 3rd of March, 1851, a town on that site called San Francisco."

2. Richardson. "There might have been sixty or seventy inhabitants altogether in the city in July, 1846,"----- San Francisco de Hara, was Alcalde of the Ayuntamiento in 1835. Joaquin Estudillo in 1836, and Gratio Martinez in 1837. DeHaro, I think, in 1838; I don't recollect who was in 1839; the names of the Alcaldes between 1839 and 1846, are DeHaro, Pendillo, (sic) William Hinckley, Francisco Sanchez, (sic) Jose Jesus Nae, (sic) Jose de la Cruz Sanchez". (sic) See 1st deposition.

III. Municipal lands were assigned to the Pueblo in 1834.

PROOFS.

I. Vallejo.-----"In 1834, I received a paper from Governor Figueroa, designating the boundaries of the Pueblo de San Francisco. I have examined document marked Exhibit No. 4, and to the best of my recollection it is a copy of the document received by me as above stated." "I don't know where the original of the document is, if it is in existence, (sic). I put it among the archives of the Pueblo, as I did other documents of that character".

This document No. 4, which Vallejo says is a copy of the original received by him from Figueroa, designates the boundaries of the Pueblo, as given in his letter of the 24th of October, 1834,and the "I (he) proceeded to mark out the boundaries, and sent down to Monterey an expedients thereof; and they were established by me two weeks after the date of the said dispatch No. 4." I have such a recollection of the boundaries established by me, that I could point them out on the ground."

2. Julius K. Rose, who speaks from the mouth of Figueroa, Alcalde says— in substance, that in 1842 he gave him the boundaries of the Pueblos as given by Vallejo. See his deposition.

3. Henry L. Ford, who came here in 1842 says----that in March, 1844, Hinckley, Alcalde, stated to him the boundaries of the Pueblo in substance as given by Vallejo, and that Guerrero informed him that the land on this sideoof Mission Creek pertained to the Pueblo pointing out the boundaries between it and the Mission , etc. Se hid deposition.

4, Richardson, in his second deposition saya---question 2nd by the Law Agent. "what was reported to be the boundaries on the side toward the port of San Francisco of the Old Mission, and the so called Pueblo of San Francisco asis?"

Answer.--- "Mission Creek was the reputed boundary."

Question 3rd.— "was the place called Yerba Buena or the peat (sic) in it for the concession of holders ever considered as embraced in the actual limits of said ~~[illegible]~~ Mission, or Pueblo of San Francisco de Asis?"

Answer.---"No, it was not".

Cross interrogatories by the Counsel of the City.

1. "What were the limits of the Mission of San Francisco de Assis?"

Answer.-----"I do not know what the limits were to the Southward and to the Eastward; but they never passed the Creek towards the port."

2. "Do you know what the Western boundary of the Mission was?"

Answer.---"The Coast of the Pacific."

3. "Do the Mission buildings stand on the North of the Mission Creek? and how far from it?"

Answer. ---"On the South side and a little over a half mile from it".

4. "What was the Northern boundary of the Mission land West of the Mission buildings?"

Answer. ---"It follows the Ravine of Mission Creek to a round hill called the Devisedero. (sic) There are two hills of that name. One where Telegraph now is. The one furthest South is the one I mean, and from that to the Pacific Coast."

5. "What was your means of knowledge that Mission Creek was the northern

[illegible]

[illegible]

[illegible]

boundary of the Mission?"

Answer --- My means of knowledge were that, the lands on this side (North) was used for pasturing the Mission stock and frequent disputes arose out of it. I recollect when I first came there were Indian huts on the North side of the Ravine, on a line from the Mission North four or five hundred yards distant; and I think at that time the stream ran by the huts."

6.---"Was the place where those huts were known by any particular name?"

Answer.----- It was called a Rancheria."

8. "Do you know a place called "Canuateleo" (sic) there, and if so is it to the North or South of the Northern line of the Mission Lands as you have described the boundaries, and how far from it?"

Answer.-----"I do know such a place. It is to the North of that line. All the little valleys to the North go by that name. They take the name from a species of reed growing in them with a black ring round them."

9. "Do you know the Spanish term by which Indians were known and designated at that time?"

Answer. --- "The Christian Indians were called 'Neophytes' and the others 'Gentiles'.

Francisco Guerrero, Justice of the Peace, by order of the Departmental Government, granted a lot to Juan Vioget, on the 16th of January, 1840, after he had completed his map of 100 by 50 varas, in the place called "Canuatal", to the West of the Road to the Mission of San Francisco, being vacant land. This grant was admitted in the testimony of Richardson, as the Northern boundary of the Mission, is the boundary given by Vallejo to the Pueblo of San Francisco. The testimony of Rose and Ford corroborates and supports his; and the grant to Vioget, bounded by the "Canuatals" to the West of the Mission road," or of the calls in Vallejo's boundary leaves no doubt of the understanding of the boundary at that time ,and that the land granted was in the recognized limits of the Pueblo. But Vallejo on his first examination said---"I did have in my possession a copy of the original document referred to as Exhibit No. 4, certified by the Secretary, Zamerano, (Sic) I think I have that copy among my private papers," etc. Upon his second examination he says-----"I have the paper now in my possession referred to in my answer to question 12; and is now here by me produced to be attached to this deposition, No. 18. I am acquainted with the hand-writing of the said Zamerano, (sic) having seen him write; and says that his signature in exhibit No. 18, been in your possession ever since about the period of its date?"

Answer. "I was in possession of it except at the Bear revoultion, as it is called in 1846. It, with my other papers, was taken from me and retained until after my own release. I think my papers were not returned to me until early in the year 1847, by Liet (sic) Revere, of the U.S. Navy. I have no hesitation in saying that the paper, No. 18, is a true copy of the original, recorded by me, and delivered to the Alcalde."

Question. "Does or not the paper, exhibit 18, contain a true statement of the boundaries of thie Pueblo as marked out by you?"

Answer. "It does contain the boundaries as established by me."

The Government has attempted to show by the negative testimony of Hartnell, Alvarado, Castro and Richardson, that document, No. 18, is spurious.

Question to E. P. Hartnell. "Examine the paper marked, etc., No. 18, attached to the deposition of M. G. Vallejo, heretofore taken in this case, and say, if you recognize the handwriting in which the body of the paper is written?"

Answer. ---"I do not. I think the signature of Zamerano (sic) affixed to the paper, a very suspicious one at least, and I do not believe it to be his hand writing:

Alvarado. "I have seen the document markes etc No. 18, purporting to be a copy of a dispatch from Jose Figueroa to Don Mareano (sic) G. Vallejo Military Commandant of San Francisco. Consider the word 'escopia conforme' and the signature, Zamerano, (sic) and cannot justify the words nor the signature, because I do not find it exactly as he used to write it. I am not acquainted with the handwriting of the body of the letter."

Jose Castro. "I was well acquainted with Zamerano (sic) former Secretary of Governor Figueroa, and very familiar with his hand writing, etc. The signature Zamerano, (sic) to the document, H.T.J. No. 18, annexed to the deposition of M.G. vallejo, filed in this case, is not genuine; the rubic is more imperfect than the name; according to my judgment it is not his. The words 'escopia conforme', written on the same paper above his name, is not his handwriting. I do not know the handwriting of the body of the document I can say that Governor Figueroa never had a clerk in his office. According to the best of my judgment he wrote a handwriting such as this."

Thus it seems that neither Hartnell, Alvarado or Castro speak with certainty in relation to the verity of this document, while Castro says that, "according to the best of my judgment, he (Figueroa), wrote a handwriting such as this," the body of document 18.

But Richardson, after declaring his acquaintance with the handwriting of Zamerano, (sic) says: "The signature at the bottom of the last mentioned paper, (document 18) is not the signature of Zamerano, (sic) the words "escapia conforme" immediately preceeding the signature are not in his handwriting. I never heard of a town called San Francisco being laid off, as represented in this document, nor of a grant to a town of that name. I never heard of a grant of land to a town or pueblo called Yerba Buena."

This witness is unworthy of credit.

1st. He says--"In the early part of the month of October, 1835, I received a one hundred vara lot in Yerba Buena, situated in what is now Dupont Street, on the soith-west side of that street, on the North side of the Adelphia Theatre", etc., "I received by the order of the Territorial Deputation to the Alcalde of the Mission of San Francisco de Asis, in 1835, in the month of October, the Alcalde of the Mission of San Francisco de Asis, Don Francisco de Haro received orders from the Political Government to lay off a small town at the place Yerba Buena," etc., "as the place called Yerba Buena was the general anchorage for the shipping at the time. The same orders directed me to assist De Hara in doing it, and the orders also directed de Haro to give me a hundred vara lot," etc.,"and to make a plan of the place selected and measured off for the town. It was laid off as represented by the plan or map marked exhibit No. 2", etc., " acopy of this plan was delivered to the magistrate, de Haro; he requested me to keep the original in my possession. The limits established by the magistrate were as follows: They first measured off two hundred varas from the beach", etc., "Then they measured off a certain distance to a place intended for a street, which they called "Calle de la Fordcion'. I think this was two hundred varas from the reserve. From this street they then measured off three hundred varas more in the same direction to the south-west; then from the south-east they commenced on the first sand hill and measured in a north-west direction along the said 'Calle de la Fordacion', four hundred varas; and there located my lot. It was the fifth one hundred vara lot," etc "These boundaries of the Pueblo of Yerba Buena were approved by the Territorial Government".

Now, the grant mede to Richardson of a one hundred vara lot, and the only one made to him, was made on the 2nd of June, 1836, by Jose Joaquin Estudillo, Alcalde, and not by de Haro, as sworn by him; upon his petition of the 1st of June, 1836, in which he declares himself in Yerba Buena and asks for a grant of a hundred vara lot in "front of the Plaza and anchorage of the ships", ti build a house on. Not a word in reference to his plat, the "Calle de La Fordacion", the number of the lot desired, or that he was to have a lot for making his plan. And the grant was made in consideration of the "good services that the party requesting has rendered to this jurisdiction since his arrival in this country with his different trades, as brick-maker, surgeon and carpenter, and having married one of the first in the country. See copies of the originals and translation from the public records.

Without further showing, who can doubt but that this plan is an after thought, fabricated to serve as a peg upon which to hang the Limputour claim?

2. Juan Vioget says:- that in the winter of 1839, he made a plan of the town by the request of Francisco Guerrero, Alcalde. Made it to throw the fromer grants which had been made in an irregular form, into blocks or squares. The West side of Montgomery street was made the base line or City front. He then drew Sacramento, Clay, Washington, Jackson and Pacific Streets as they are now known; and laid off at right angles Kearny and Dupont Streets. At the same time marked off Richardson's lot, but made no corresponding streets The only instructions received from Guerrero were to regulate the grants then made and to have a plan by which to make future ones. There were no limits stated to me. Did not make more streets. Did not think them necessary at the time, but dotted the extension of those made. Guerrero told me that Governor Alvarado had ordered the survey. At the time I made my map I had no knowledge of any previous one. Never saw or heard of one. Richardson's family was living in his house in Dupont Street. He was sailing about in the harbpr all the time. Whether he knew or not of it, I can't say. He must have known shortly after. I was sometime (sic) doing the work. There were but few people here. They saw me at it and must have known what I was about.

Question 2. "When and from whom did you first hear of the map said to be made by Richardson?"

Answer. I never knew any such map was in existence until Jose Y. Limantour spoke to me about it last year."

3. Richardson, in his first deposition says---"From July, 1835, to June, 1841, I resided at Yerba Buena. I never knew of an Ayuntamiento setting (sic) at the Presidio; when I came here in 1835, they were sitting at the Mission; they always sat at the Mission."

Francisco Sanchez, another witness for the United States and an official of the pueblo in several capacities from its first organization says--that the Ayuntamiento held its sessions at the Presidio from its installation, 1st of January, 1835, to the latter part of the year 1837, or the beginning of 1838; ans that "there was no Ayuntamiento at the Mission in 1834 or 1835".

The contradictions and discropancies with others not noted, but which are abundant, and apparent in the testimony, must destroy all confidence in that of Richardson. But, if it were otherwise, we hold upon principle that the affirmative of testimony of Vallejo as to the verity of document No. 18, supported as it is, cannot be shaken by the negative testimony of a host of witnesses as to hand writing.

But, suppose it were admitted that No. 18 is a apurious document as related to the words "Escopia conforme", and the signature of Zameraho; (sic) yet, Vallejo swears that it is a copy of the original, under which he designated the boundaries of the Pueblo; and which original he placed in the Pueblo archives. That original after the most diligent (sic) search, is not to be found. Its existence is proved, if Vallejo is to be believed; and the best possible evidence of its contents is the document 4 and 18.

POINTS OF LAW.

I. Ayuntamientos were alone accorded to cities and towns by the Spanish and Mexdcan Goverhments, and not to partidos, or other political divisions of Territory.

II. The ten league question does not arise in Pueblo claims for municipal lands.

1. They were not subject to colonization under the law of the 18th of August,1824. And consequently, not to the prohibition in the 4th section.

2. The Presidios in California were all established prior to the colonization law of 1824; were all established as well as the Missions, which they were intended to support within ten leagues of the coast; and by the existing law. Presidio grants were authorized within the range of four square leagues, measuring from the center if the Plaza. Decree of de Noroa (sic) 22nd March, 1791. Rockwell, p. 451.

3. Mexico on the 17th of August, 1833, passed and act for the secularization of the missions and their reductions to Pueblos. The territorial Deputation enacted on the same subject on the 6th of August, 1834, And the Governor Figueroroa, on the 9th of the same month, published his regulations converting the missions into Pueblos; the heads of the families to have grants of the Mission lands. Section 5 of his regulations.

111. The formation of Pueblos were favored by the Spanish and Mexican Governments, both of which, always accorded to their municipal lands, for solaros, proprios (sic) and Egedos (sic) and this, whether established by Emprearios, or direct action of the Government.

Lib. 111	Tdtle	111	Law	28,	Rec'd	Ind.	2	White's	Rec.	p.	41
Lab. 1V	"	"	"	8 ,	"	"	"	"	"	"	43
Bib. "	"	"	"	28,	"	"	"	"	"	"	43
Bib. "	"	V	"	6,	"	"	"	"	"	"	44
Bib. "	"	"	"	7,	"	"	"	"	"	"	44
Bib. "	"	"	"	9,	"	"	"	"	"	"	45
Bib. "	"	"	"	IO,	"	"	"	"	"	"	45
Lib. 1V	Title	VII	Law	7,	Rec'd	Ind.	2	White's	Rec.	p.	46
Lib. "	"	"	"	II,	"	"	2	"	"	"	47
Lib. "	"	"	"	14,	"	"	"	"	"	"	47

And so sacred was this right held under the Spanish Government, that grants made of them by the King were declared void.

Lib. Vll.	Title	16,	Law	1,	Rec'd	Ind.	2	White's	Rec.	p.	IOO
Lib. "	"	16,	"	2,	"	"	"	"	"	"	IOO
Lib. N.	"	13,	"	1,	"	"	"	"	"	"	55

United States vs. Nrw Orleans, IO Peters 70I, 730. Cohas vs. Lagree, and another Supreme Court, California.
The same principle is recognized in the Mexican Constitution imposing restrictions upon the power of the President. "The President cannot occupy the property of any individual or corporation, nor disturb them in the possession or use of the same." 1 White's Rec. p. 402, Sec. 4 Article 112.

Pueblos with an Ayuntamiento were corp rations under both the Spanish and Mexican Governments.
Alvarado, in answer to the question---"By what authority, after the Mexican Independence, were municipal lands or Engidos (sic) assigned to towns?" Said ---"I recollect a law given by the Cortez (sic) of Spain in 1813", etc. "This law provides the manner in which the municipal lands shall be assigned to towns already established, or which may hereafter be established. I do not recollect any decree of the Congrese or President of Mexico recognizing those laws as in force in California, but I am certain the said Spanish law was ordered by the Mexican Government to be observed by all the governments within the Territories of the Mexican Republic; and it was acted upon."

On the 6th day of August, 1834, the TerritorialDepartment enacted--Section 1st. The Ayuntamientos shall make application through the usual channels, requesting lands to be assigned to each Pueblo for Engidos (sic) and proprios. (sic)"

Vallejo shows that he received an order from Figuerora, the Governor dated the 4th of November, 1834, assigning boundaries to the Pueblo of San Francisco. That he established the boundaries as directed, within two weekd from the date of the order. That he deposited the original in the archives of the Pueblo. That documents Nos 4 and 18, attached to his deposition are substantial if not literal copies of it. And that his recollection of the boundaries are such as to enable him now to point them out on the ground.

And on the 26th of October, 1835, Jose Castro, the acting Governor, in a communication to the Alcalde, Francisco de Haro, who then resided at the Presidio. Testimony of Sanches (Sic) made known to him that "the territorial deputation in its session of the 22nd of September, approved that the Ayuntamiento of this Pueblo, have power to grant house lots, which should not exceed 100 varas". Document No. 6 Vallejo's deposition.

IV. The municipal organization of the Pueblo, was by the giving to them Ayuntamientos; and thus organized the right to municipal lands resulted for Solares, proprios (sic) and Egedos (sic), Lib. IV, T.6 L.7 2 Whites Rec. 45. Lib. IV T. 17 L.5 White Rec. 55; Lib. VII T. 16, L. 1 2 2 White's Rec. 100.

The Ayuntamiento was organized and inducted into office at the Presidio on the 1st day of January, 1835.

V. Formal grants of land were never made to Pueblo, either by the Spanish or Mexican Governments. They were assigned, designated, bounded or laid off, so as to separate them from the balance of the domain. Then established by an Imprerario his contract governed; when by the Government the laws gave the right not as a grant of a fee, but as a dedication to the uses for which designed. 2 Green L.co. Sec. 662; and cases cited, Chotoan vs. Eckhart, 2 ~~xxHowxxdx~~ Howard 344, 372, M Cay vs. Dillon, 4 Howard, 421. New Orleans vs. United States, 10 Peter 662, 701, 730.

The cases on Howard are referred to, to show upon how much weaker testimony than in this case, the Pueblo rights were confirmed; and the case in Peters, to show that these rights were from dedication and not from grant.

VI. The Act of Congress, March 3rd, 1837 Sec. 121-- "Shall not extend to any town lot, farm lot, or pasture lot, held" etc "nor to any city, or town, or village lot, which city, town or village, existed on the 7th of July, 1846, "etc "and the fact of the existence of the said city, town, or village on the said 7th of July, 1846, being duly proved, shall be prima facie evidence of a grant to such corporation. etc.

The word "grant" used in this section must be interpreted "right" any other would render the provision negatory. What right? a right to municipal lands. To what extent? When assigned to the boundary designated, and when not to four square leagues.

Now, it cannot be questioned:

1st. But, that there was a town here on the 7th day of July, 1846,

2nd. But that the present City of San Francisco, succeeded to the rights and incurred the responsibilities to which that town was subject, at the time of its incorporation, April 15th, 1850, and not to the rights and responsibilities of the Mission of San Francisco de Assis.

3rd. But, that the presumption declared in said section was declared in favor of the City as the successor of the town.

4th. But, so far from the evidence in the case disproving the presumption declared, it favors it. If not according to the letter and grant, certainly according to the spirit and intent of the Act.

"Shall be prima facie evidence of a grant"; prima facie evidence in its favor, or being entitled to the ordinary rights of a town to municipal lands, solares proprios, and Egedos. (sic)

VIII. "And where any city, town or village shall be in existence at the time of the padsage of this act, the claim for the land embraced within the limits of the same may be made by the corporate authorities of the said city, town or village." This city was incorporatedby Act of the Legislature on the 15th of April, 1850, with definite boundaries, and a clause resigning to her all rights which she might have exterior to them. The quotation at the head of this point is part of the sentence. Section 14 Act of Congress, March, 1851, and the presumption deckared in the previous part must equally apply to it, or, if not, the claim of land spoken of in it, to be made by "any city, town, or village in existence at the time of its passage, must intend a confirmation within the corporate limits, as a donation, to such city, town, or village, so far as the United States is concerned, and that without limitation or condition.

ISAAC THOMAS,
Assistant Counsel for Claimant.

BRIEF OF J. B. CROCKETT, OF COUNSEL FOR CLAIMANTS

ON ARGUMENT BEFORE THE U. S. LAND COMMISSIONERS.

(May 16, 1854.)

City of San Francisco	)	
	)	
- vs.-	)	No. 280 Before U. S. Land Commissioners.
	)	
United States.	)	

The undersigned, on behalf of the claimant, respectfully submits the following reasons why the said claim ought to be confirmed:

Before adverting to the testimony, however, it may be well to premise, that the claim is for four square leagues, bounded on the north and east by the Bay of San Francisco, on the west by the ocean, and on the south by a due east and west line, including the area aforesaid. There is, therefore no difficulty in ascertaining the precise land claimed.

The title of the city is predicated upon three grounds, to-wit:

1. That for some years prior to the treaty of Guadelupe Hidalgo, there was at this place a Pueblo or town, called and known as "Yerba Buena", or "San Francisco", and which has since been duly incorporated as the City of San Francisco; and that as such Pueblo, it was entitled, under the Mexican and Spanish law, to four square leagues, as a part of its municipal rights, even though no express grant be shown.

2. That in November, 1834, the Pueblo was duly and formally established by a decree of the Governor and Departmental Legislature of California, and its lands expressly assigned to it, by metes and bounds, and by competent authority.

3. That on the 7th day of July, 1846, the town of Yerba Buena or San Francisco was in existence, and that by the fourteenth section of the act of Congress of March 3d, 1851, organizing this Board, a grant will be presumed, until the contrary appears; and in this case, nothing has been shown to repel this presumption.

I propose to discuss these propositions in the order in which they are stated; but before proceeding to do so in detail, would invite the attention of the Board to the general nature of the village right to common and other lands, under the laws and usages of the Spanish and Mexican Governments, as recognized not only in the legislation of Congress, and in numerous decisions of the Supreme Court of the United States and other courts of high authority, but also as established both by the positive enactments and long continued usage of the Mexican and Spanish Governments.

The treaty of 1803, by which Louisiana was ceded to the United States, afforded the first occasion on which Congress was called upon to legislate concerning this village right. For many years prior to that period, Louisiana had been a Spanish

province, and even then was sparsely populated; and the inhabitants of which resided chiefly in villages, cultivating the contiguous lands for their support, and invariably having common lands, for pasturage and fuel, conveniently located near the village. In this condition, Congress found the country at the date of cession, and at once organized a Commission, for the adjudication of private claims, on the most liberal and equitable basis. But it was soon ascertained that, owing to the primitive habits of the people, and the very loose manner in which lands had been granted and conveyed, great hardship would ensue, if the inhabitants of the villages were compelled to establish even informal grants to the town lots on which they had been born, and the comcom lands over which their cattle had roamed for many years. Therefore on the 13th of June, 1812, Congress in a commendable spirit of liberality, passed a law, the first section of which enacts "that the rights, titles and claims, to town or village lots, out lots, common field lots, and commons, in, adjoining and belonging to the several towns or villages of Portage des Sioux, Saint Charles, Saint Louis, Saint Ferdinand, Village a Robert, Carondelet, Saint Genevieve, New Madred, New Bourbon, Little Prairie, and Arkansas, in the territory of Missouri, which lots have been inhabited, cultivated, or possessed, prior to the 20th day of December, 1803, shall be, and the same are hereby confirmed to the inhabitants of the respective towns or villages aforesaid, according to their several right or rights in common thereto" (2 Statutes at Large, 748.) This has been repeatedly construed by the courts to be a legislative grant or confirmation, as effective as a patent to convey whatever title was in the Government of the United States. It will be observed that this act requires no proof of a prior grant, nor any other evidence of title except that which results from occupation, cultivation, or possession, prior to the 20th day of December, 1803 -- the date of the treaty of cession. In a spirit of liberal forbearance towards the ignorant and peaceable villagers, who claimed these lots, Congress demanded of them no other proof of title than that derived from their prior occupancy. It will be observed, (sic) also, that the act embraces not only "town lots, out lots, and com monfield lots", but "commons" also -- thereby distinctly recognizing a "common" as appurtenant to each of these villages. In 1831, when these villages had (some of them) grown into cities, and particularly Saint Louis, Congress, in order still further to perfect the title in the inhabitants, in a convenient, practical form, released, in the most explicit manner, to the corporate authorities, whatever title the United States held to the commons. In virtue of these two acts, the City of Saint Louis obtained as her common lands, over 6,000 acres, whilst the village of Saint Charles obtained over 14,000, and Carondelet, a small French village, only six miles distant from SaintLouis, over 12,000 acres. I cite these facts to prove, first, that Congress distinctly admits the existence of a "common", as appurtenant to a Spanish village; and second, the very liberal spirit evinced by the Government toward these village claims.

In the case of Chouteau vs. Eckert, (2 Howard, 344.) the controversy related to a lot in the commons of Saint Charles; and justice Catron, in delivering the opinion of the Court, says:

"The character and nature of the village right in "this country is somewhat peculiar. The inhabitants of upper "Louisiana resided in villages almost exclusively, and cultivated "common fields enclosed by only one fence; each person who culti-"vated the soil having assigned to him by the sindic's of the "town, a certain portion of land to cultivate. In this manner "the chief tillage of the soil was carried on; the other parts

"of the country being in the forest state. The villages also "required commons for pasturage for their horned cattle and hors- "es, and for fuel and timber, this part not being enclosed. The "quantity included in the field, for pasturage, timber and wood, "was regulated by the nature of the soil and timber, and accomo- "dated to the wants of the inhabitants, and conceded at the dis- "cretion of the Government -- usually to a very liberal amount. "As the principal support of the population was derived from ag- "riculture and pasturage, the village commons were deemed of pri- "mary importance by the people and Government, and as a common "title, more favored than individual titles in cases of conflict. "In this situation, the United States found the country, when "they came into possession of it, in March 1804, as the successor "of France, or rather Spain, in virtue of the treaty of cession. "So great has been the change by the introduction of a population "with different habits and modes of agriculture, that it is dif- "ficult to estimate at this day the former importance of the vil- "lage common to the French inhabitants. It was the basis on which "their society was formed, to such an extent, that the early "acts of Congress could not be well understood without a refer- "ence to this important circumstance; and especially not the "sweeping act of 1812."

These remarks of the learned Judge are entitled to especial consideration, as applied to the villages of California, which far more than the villages of Louisiana, required commons for pasturage for their cattle and horses, and for fuel and timber. It is emphatically true of them that the "principal support of the population was derived from agriculture and pasturage", and that"the village commons were deemed of primary importance by the people and Government, and as a common title, more favored than individual titles in cases of conflict." That Congress was deeply impressed with the truth of these views, and regarded with especial favor the claim for village lots and commons, is evident from the fact that in 1812, without any previous confirmation by a Board of Commissioners, and without any evidence of an express grant, but exclusively on the ground of prior possession, and the practice and usage of the French and Spanish Governments, Congress confirmed to the inhabitants not only their town lots, but their common lands, in the utmost extent to which they had ever been claimed as such. The nature of these village claims, and the very imperfect evidence of any express grant, will appear from the case above cited, (Chouteau vs. Eckert, 2 How. 344,) and Mackey vs. Dillon, (4 How. 421.)

But in the leading case of Strother vs. Lucas (12 Peters, 440-1,) the rules and regulations of the Spanish government, concerning the bounding of towns and villages, and the allotment of the common lands to them, are collated at great length; and from the authorities there cited, it is evident beyond dispute, that commons were not only deemed indispensable, but were regarded as so inviolable that even the King himself could not despoil his towns and cities of them. For further particulars of the Spanish law on the same subject, see 1 Whites Recopilaction 74 et seg.; New Orleans vs. United States, 10 Peters, 662; Bird vs. Montgomery, 6 Missouri R. 610.

In the latter case, the Court says, "It seems to have been the custom with the kings of France and Spain, to grant to towns and villages a portion of land contiguous thereto, as a common, for the supply of fuel to the commoners and to furnish pasturage for their cattle; and <u>the king himself could not alienate</u> such common. A careful examination of the laws and usages

of both these countries, led the Supreme Court of the United States to the conclusion that these sovereigns could exercise a certain jurisdiction over these commons and other places similarly situated; but it was purely a police regulation -------- Indeed, what kind of proprietary interest can we imagine existing in the crown, which is unalienable? The very terms of an absolute dominion imply the power of alienation. The dominion retained by the King of Spain, then, was not proprietary, but purely political -- a dominion never severed from the sovereignty of any country, and nowise inconsistent with the absolute ownership of a subject."

The Court then proceeds to say, "It is needless, however, to enter into any minute inquiry in relation to the exact nature of the ownership of the commoners under the Spanish government. Whether corporeal or incorporeal, it was absolute and allodial, and no fee, according to the feudal understanding of that term, was outstanding in the King or any one else."

But the rights which towns and cities, under the Spanish law, acquired in their common lands, was more fully and perhaps more satisfactorily discussed in the leading case of the City of New Orleans vs. United States, (10 Peters, 662.) than in any other case decided by the Supreme Court of the United States. The controversy in that case was concerning the quay at New Orleans, and the proof established that whilst Louisiana belonged to France, a charter was granted to a corporation styled the "Western Company", by which the company was authorized to grant lands allodially in Louisiana; and under its authority, the ground on which New Orleans stands was selected as the site for a town, which was accordingly laid out, and a map thereof, made, on which the space along the river in front of the town was designated as a "quay". After the building of the town had been commenced, the Western Company surrendered its charter to the crown of France; and it was claimed on behalf of the United States, that upon the cession of Louisiana, this government succeeded to all the rights which appertained to France; and that inasmuch as France, prior to the cession, had not granted the ground designated as the "quay", the United States as the successor of France, became vested with the fee. The Court says, "it is admitted that the power of the sovereign over the streets of a city is limited. He cannot aliene them, nor deprive the inhabitants of their use; because, such use is essential to their enjoyment of urban property; and a distinction is drawn in this respect between the streets of a city and other grounds dedicated to public use. The latter, it is contended, is not only under the supervision of the King as to its use, but he may sell and convey it. Nor would it seem in reason that the principle is the same in both cases. The inhabitants of a town cannot be deprived of their streets, as the streets are essential to the enjoyment of their property. In other words, by closing the streets, the value of the buildings would be greatly reduced, if not entirely destroyed; and if ground dedicated to public use, which adds to the beauty, the wealth, the convenience and the value of town property, be arbitrarily appropriated by the sovereign to other purposes, is not the value of the property which has been bought and sold in reference to it, greatly impaired? But it is said, if the dedication was made by the king, the citizens of New Orleans or the public did not acquire a right paramount to this, and that having a right to regulate the use and the fee never having been conveyed by him to the city by grant or otherwise, he must of course retain the power by disposing of the property. ---- The right of the king to this property is compared to the right of a City, which

is vested with the fee and the use, and as in such cases the corporation may dispose of the property dedicated, with the sanction of the sovereign power, the sovereign it is contended having the right of property, and the power to regulate the use, may alien -------.

Though certain places may be dedicated to public purposes by the Supreme Power, and may be said to be withdrawn from commerce, still it is insisted, when no grant has been made and private rights have not become vested in the property, it is not withdrawn from the sovereign power. That the King under the law of nations, was entitled to the right of soil in Louisiana, is not contested; - - - but the conclusion which is drawn from this, that, as no grant was given, the King had a right, to alien the ground in contest, the same as any other part of Louisiana, is not admitted. - - - -

Does not this long acquiescence of the monarch, and enjoyment of the property by the city, afford some evidence of right? - - - The public use of this common for so great a number of years, and the general recognition of it from the time it was dedicated, in numerous private and official transactions, and the acquiescence of the French King, offered no unsatisfactory evidence of right. If a grant from the King were necessary to confirm the claim of the city, might it not be presumed under such circumstances?

The Court then proceeds to enquire, whether the transfer of Louisiana from France to Spain prior to its cession to the United States, in any manner impaired the rights of the city to its common property. After quoting copious extracts from the Spanish laws and ordinances, as contained in the Partidas and other works of high authority, the Court proceeds as follows:

"A faithful observance of these laws would have preserved the rights of the city, free from invasion. No law was cited in the argument which showed the power of the King of Spain to alienate land which had been dedicated to the public use; and it is clear that the exercise of such a power would have violated the public law which is understood to have limited the exercise of the sovereign power in this respect."

The Court sums up its conclusions on this branch of the subject with the following emphatic language:

"From a careful examination of the jurisdiction exercised over this common by the governments of France and Spain, and the laws which regulated this description of property in both countries, the conclusion seems not to be authorized, that it was considered as a part of the public domain or common land which the King could sell or convey. This power was not exercised by the King of France, and the exercise of the power by the Spanish governor in the instances stated, was in violation of the laws of Spain, and equally against its usages. The land having been dedicated to public use, was withdrawn from commerce; and so long as it continued to be thus used, could not become the property of any individual. So careful was the King of Spain to guard against the alienation of property which had been dedicated to public use, that in a law cited, all such conveyances are declared to be void."

But it was argued, that even though the Kings of Spain and France could not alienate the land, yet they retained

the power to regulate its use, and that on the cession of Louisiana, the United States succeeded to this right and might therefore interpose to prevent the city of New Orleans from selling the property to private individuals in derogation of the public easement.

But the Court decides that under the Constitution of the United States, the Federal government cannot hold or exercise such a power, and that if it exists anywhere, it rests with the State government to enforce the trust, and prevent what they shall deem a violation of it by the city authorities.

I have made these copious extracts from the learned opinion of the court, because they have cast much light upon the rights of the claimant in this cause. In my judgment this decision conclusively establishes the following propositions, to-wit: 1st, that in favor of long usage and in absence of an express grant, the law will presume a grant; 2d, that under the Spanish law, land once dedicated to public use, cannot be alienated even by the King; 3d, that in relation to common lands, either expressly or by implication, dedicated to the public use, before the cession of foreign territory, the United States, as the successor of the former sovereign, acquires no tltle (sic) either in fee or otherwise to such sommon lands; 4th, that in respect to such commons the Federal government cannot interpose to prevent a sale thereof, or a breach of the trust by which they were dedicated; that subject being exclusively within the jurisdiction of the State authorities.

I think the conclusion is irresistable, from these authorities, that it was not only a custom and usage, but a positive enactment of the Spanish government, that in the founding of towns and infant settlements in the provinces, not only town lots were to be assigned to the inhabitants, but commons for pastureage and fuel, the title to which was vested in the inhabitants for public use, and which the King himself could not alienate.

I propose in the next place to enquire, whether these regulations were applicable in a peculiar degree to California, so long as it remained a Spanish province. It is a matter of history, that at least as early as the year 1777, an effort was being made by the Crown of Spain, to civilize and christianize the Indians of California by the establishment of "Missions" in their midst. For the protection of these missions, presidios or military posts were established, and very soon afterwards it was deemed necessary to encourage colonization by the establishment of pueblos or villages with extraordinary privileges. Indeed it is evident from the history of the times, that settlements could not then safely be made, except in towns or villages; and hence the government earnestly endeavoured to promote that form of settlement. Hence we find that the first express authority for granting lands in California related to "commons" for the use of the inhabitants of pueblos and villages. As early as the 17th August 1773, the viceroy in his instructions to the commandante of this province, Art. 12, says: "With the desire to establish population more speedily, I for the present grant the commandante power to designate common lands, and also even to make individual concessions to such Indians as may most dedicate themselves to agriculture and the raising of cattle; for having property of their own, the love of it will cause them to plant themselves more firmly; but the commandante must bear it in mind, that it is very advisable not to allow them to live dispersed,

each on the land given him; but that they must have their house and habitation in the town or mission where they have been gathered or settled." From this it was evidently the intention of the government, to commence the settlement of the country by the establishment of towns or villages. In furtherance of this policy, the commandante was first to designate common lands for the use of the people. This was to be the chief mode of granting; but in meritorious cases he might grant lands to individuals on condition they would reside in the villages.

Art. 6 enjoins upon the Commandante the importance of congregating to Indians in the Mission Pueblos, "in order that they may be civilized and led to a rational life."

Arts. 7 and 8 contain directions as to the proper sites for new settlements, in relation to water, timber, &c., and the instruction of the Indians in the arts of building, &c.

Art. 9 recites that all new settlements beginning with few families, may afterwards grow into large cities.

Art. 10 provides, that as the mission settlements are hereafter to become cities, care should be taken that the houses be built in line, with wide streets and good market squares, &c.

Art. 11 provides that for the preservation of the new mission settlements, it is very essential that near them should be encouraged the raising of cattle, cultivation, and the planting of trees,

These instructions may be found at large, appended to the Reports of Capt. Halleck and William Carey Jones, and taken together, they evince most clearly that it was the policy of the government to commence the settlement of the country with towns and villages.

It was also found necessary to establish in California depots of provisions for supplying Spanish vessels from the East Indies, and for the support of the Presidios; and to that end instructions were sent by the viceroy, in June, 1777, to Don Philip Neve, the then Governor of California, to establish two pueblos; one on the Rio Guadelupe, and the other on the Rio Porcinculo; and to allot lands to the "pobladores", or colonists. Having established the Pueblos in pursuance of his instructions, the Governor, on the 1st of June, 1779, established certain regulations for the government of the Californias, which direct with much minuteness how the affairs of the Pueblos are to be oonducted (sic), and define with great precision the rlghts (sic) not only of the inhabitants, but of the Pueblos in their municipal character.

Article 1st recites that the Pueblo of San Jose had been established especially to encourage agriculture and the breeding of cattle, so that it might furnish supplies for the Presidios, &c.

Article 2nd secures a liberal pay or bounty to the "pablodores," or settlers in the Pueblo.

Article 3rd allots to them certain cattle and farming implements; some for the use of the settlers severally, and the remainder to be used by all in common.

Article 4th provides for the allotment of house lots to the inhabitants, to be designated by the Government; and also

of common lands, pasture grounds, and sowing lands, to be designated and set apart for the Pueblo, for municipal purposes.

Article 5th defines the size and number of the lots to be assigned to the inhabitants in severalty, and then provides that "of the Royal lands, as much as may be considered necessary, shall be separated for the purposes of the Pueblo."

Article 8th provides that the colonists shall enjoy, for the maintenance of their cattle, the common use of the water and pasturage, fire-wood and timber, of the commons, forests and meadows, to be designated according to the laws to each new Pueblo; and besides, each one shall separately enjoy the pasturage of his own lands .

Article 9th amongst other things, provides that a storehouse shall be erected, in which must be kept the produce of the "public sowing", which at the rate of one "almud" of maize per inhabitant, must be made, from the third to the fifth year, inclusive, in the lands designated for municipal purposes.

For further particulars concerning these regulations, see the reports of Halleck & Jones. These regulations were fully approved by a Royal order of the 14th of October, 1781.

I submit therefore, that these documents establish conclusively the early policy of the Spanish Government, for the encouragement of Pueblos or towns in California; and the further fact, that in founding such towns, the "commons", in the language of Justice Catson, in Chouteau vs. Eckert, "were deemed of primary importance by the people and Government", and were in fact "the basis of their society."

But it will perhaps be said in reply, that even though all this were conceded to the fullest extent claimed, it would prove nothing as to the establishment or rights of a Pueblo under Mexican law, in 1834, or at a later period. In answer to this argument, I maintain :---

1. That the laws, customs and usages of Spain, which were in force when Mexico renounced her allegiance to the Spanish Crown, continued in force in Mexico after that event, unless they were abrogated by some enactment of the new Republic. This principle is too well known to need illustration, or the citation of authorities. If Mexico, by her legislation, has in any respect changed, or modified, either the policy or plans of Spain, for the founding of Pueblos in California, it will be for the counsel (sic) for the Government to establish the fact, which I apprehend they will be unable to do.

2. Nothing short of an explicit act of the Mexican nation to that effect, would justify the conclusion that, in the founding of towns in her frontier provinces, she intended to abandon a policy, not only wise in itself, but so firmly established by long usage, and so congenial to the habits of her people.

3. The legislation of Mexico, since her independence, so far from indicating any change of policy in this respect, conclusively establishes a strict adherence to it. The first act of Mexico touching the disposition of her public domain, was the colonization law of 1824, the second article of which is as follows: "These lands of the nation, which not being private property, nor belonging to any corporation or town, may be colonized."

In the regulations of 1828, for carrying into effect the law of 1824, the 13th article provides that "the union of many families into one town shall follow, in its formation, interior government and policy, the rules established by the existing laws of other towns -- special care being taken that the new ones shall be built with all possible regularity".

From these provisions, it is evident that the colonization laws contemplated the founding of new towns, with the same rights and privileges which appertained to other towns of the Republic.

By an act of the Mexican Congress of the 17th of August, 1833, the Missions of the Californias were ordered to be secularized; and in order to carry this law into effect, the Territorial Deputation of California, on the 6th of August, 1834, decreed as follows; "1. The Ayuntamientos shall make application through the usual channels, requesting lands to be assigned to each Pueblo, for egidos and propios."

"2. The lands assigned to each Pueblo for propios shall be subdivided into middling-sized and small portions, and may be rented out or sold at public auction, subject to an emphytentic vent or tax; the present possessors of lands belonging to the propios, will pay an annual tax, to be imposed on the Ayuntamientos -- the opinion of three intelligent and honest men being first taken."

The third article prescribes the prices for building lots.

Three days after the date of this decree, to wit, on the 9th of August, 1834, Jose Figueroa, the Governor of California issued certain regulations to be observed in the secularization of the Missions, the first article of which is as follows:

"The Governor, agreeably with the spirit of the law of August 17th, 1833, and with the instructions which he has received from the Supreme Government, will, with the co-operation of the Prelates of the Missions, partially convert into Pueblos the Missions of this Territory; beginning with the next month of August, and commencing at first with ten Missions, and afterwards with the others."

The fifth article, amongst other things, provides that "common lands shall be assigned to each Pueblo, and when convenint (sic) municipal lands also."

The fourteenth article is as follows: "The political government of the Pueblos shall (sic) be organized in perfect conformity with the existing laws. The Government will give the necessary instructions to have the Ayuntamientos established, and elections made."

Article fifteenth provides that "the economical government of the Pueblos shall be under the charge of the Ayuntamientos; but as far as regards the administration of justice, in litigated matters, they will be subject to the primary judges of the nearest towns constitutionally established."

Article twenty-third establishes rules for the enforcement of these regulations, and amongst others, provides that rancherias situated at a distance from the Missions, and containing more than twenty-five families, may, if they choose, form a

separate Pueblo; and those containing less than twenty-five families, form a district, to be attached to the nearest Pueblo."

From these documents it is evident, the Governor and Territorial Deputation felt fully authorized to establish new Pueblos at their discretion; and the Governor recites that in doing so he is acting in pursuance of instructions from the Supreme Government. It is further evident, that egidos and Propios, or common and municipal lands, were to be assigned to the new Pueblos, in accordance with the ancient customs and usages of the country. On the 20th of March, 1837, the Mexican Congress made a new law for the internal government of the Departments, of which California was one; and by this act it is provided, that "the interior government of the Department shall be under the charge of the Governor, Departmental Legislature, Prefects and Sub-Prefects, Ayuntamientos, Alcaldes, and Justices of the Peace"; and provides also that the Governor shall be appointed by the President. The Governor was to appoint the Prefect, approve the appointment of sub-Prefects and Justices of the Peace, and might remove any of them at his discretion. The Departmental Legislature was authorized "to pass laws relative to taxes, public education, industry, trade, and municipal administration"; and amongst other things, might authorize the Ayuntamientos to alienate certain property belonging to the municipal funds. Amongst other duties imposed upon the Prefect, he was authorized, agreeably to the laws, to regulate the distribution of common lands, in the towns of his district. The act also defines the mode of oppointing the Ayuntamientos, Alcaldes, and other inferior offices, and defines their duties. This law remained in force up to the date of the acquisition of California by the United States.

I submit, that these documents establish, in the most conclusive manner, not only that the ancient usages of the Spanish Government, touching the allotment of common lands to Pueblos, was not only not abrogated by Mexico, but has been ratified and adopted in every act of the general or local authorities, pertaining to the subject, up to the latest period when the Mexican law prevailed.

I propose next to inquire whether, in the absence of all proof establishing either a special grant of municipal lands, or the designation of them by metes and bounds, the law will fix the quantity; and if so, how the particular lands are to be set apart. The petition claims four square leagues, and the question is whether or not the law and evidence establish that claim.

As early as March, 1791, the Commandant General of the Internal Provinces of the West, in a letter of instructions to the Commandant of California, conveys the following explicit declarations on the subject: "In conformity with the opinion of this Commandancia General, I have determined in a decree of this date, that notwithstanding the provision (sic) made in the eighty-first article of the ordinance for the establishment and instruction of Intendants, the Captains of Presidios are authorized to grant and distribute house lots and lands to the soldiers and citizens who may solicit them, to fix their residences on; and considering the extent of four common leagues, measured from the centre of the Presidio square, viz: two leagues in every direction, to be sufficient for the new Pueblos to be formed under the direction of said Presidios, I have likewise determined (sic), in order to avoid doubts and disputes in future, that said Captains restrict themselves henceforward to the quantity of house lots and lands within the said four leagues, without ex-

ceeding in any manner said limits, leaving free and open the exclusive jurisdiction belonging to the managers of the Royal Hacienda, respecting the sale, composition, and distribution of the remainder of the lands in the respective districts. And that this order may be punctually observed and carried into effect, you will circulate it to the captains and commandants of the Presidios of your province, informing of having done so."

The eighty-first article of the ordinance referred to in this letter of instruction, may be found in 2 White's Recopilacion, (page 71,) from which it appears that the Intendants were invested with authority to decide as to the proper mode of distribnting (sic) lands, in the provinces within their respective districts. It has been frequently decided by the Supreme Court of the United States, that in reference to lands in Louisiana, whilst a province of Spain, the absolute power of granting lands, with complete titles, was vested in the Intendant General, by the Spanish Government; and the same powers were doubtless conferred upon the Intendants of other provinces, as sufficiently appears by the eighty-first article of the ordidance (sic) above quoted. The instruction to the Commandent of California is explicit, and as it came from competent authority, it appears to establish very conclusively that four leagnes (sic), measuring from the centre, was to be assigned to the new Pueblos, where no other limits were actually defined. There is nothing to justify the inference that Mexico, after its independence, ever changed, abolished or modified this rule.

2. I now proceed to the second ground relied upon in support of the claimant's title to wit, that in November, 1834, the Pueblo was duly established by competent authority, and its lands formally assigned to it by metes and bounds. This proposition involves two questions - the first, a question of fact, to wit, whether or not proceedings were had, and if so, what proceedings to establish the Pueblo and define its limits; and the second, a question of law, to wit, whether or not such proceedings emanated from competent authority and were effectual for the ends contemplated.

In support of the first point, I consider it established very satisfactorily --

1. That the Territorial Deputation, on the 6th August, 1834, passed an act directing the ayuntamientos to apply through the proper channels for lands to be assigned to new pueblos for egidos and propios, directing the propios to be rented out at auction, and fixing the price of house lots for building.

2. That on the 9th of the same month, the Governor (Figueroa) issued his decree for secularizing the Missions and converting them into Pueblos; and in the fifth article, directs common and municipal lands to be assigned to them.

3. That on the 3d November, 1834, the Territorial Legislature approved and ratified the decree of the Governor, and on the same day instructed the Governor to cause the Partido of San Francisco to hold an election for an Ayuntamiento, "who should reside in the Presidio," and to be composed of one Alcalde, two Regidors, and one Syndico; and that the Ayuntamiento, when chosen, should, in the shortest time, "mark out the limits of its municipality", and reduce to its political jurisdiction the neighboring population.

4. That on the following day, to wit: Nov. 4th, 1834, the Governor enclosed a copy of this decree to M. G. Vallejo, the Commandant, and directed him to see to its fulfillment, and notifying him that after the organization of the Ayuntamiento, the Commandant will no longer exercise civil functions (leaving those to the Ayuntamiento), and will confine himself solely to his military duties.

5. That on the same day (Nov. 4th, 1834), the Governor addressed an official despatch to the Commandant, notifying him that with the consent of the Territorial Deputation, he had adopted, entire, the plan before them submitted by the Commandant with respect to the Pueblo of San Francisco; declaring its boundaries to be the same recommended by the Commandant, and which are specially set forth in the despatch; and declaring that Mission Creek shall form the boundary "between the Municipal Jurisdiction of that Pueblo and the said Mission of Dolores;" also, ordering the Commandant to cause an Ayuntamiento to be elected, so that they might be installed by the 1st January, 1835, and to designate the particular house in which they should meet. A copy of this despatch is appended to the deposition of Vallejo; and as its authenticity is disputed, I shall remark upon that point hereafter.

6. That on the 7th December, 1834, an election for the Ayuntamiento was held at the Presidio. This was a primary election for electors who were to select the Ayuntamiento. A copy of the official paper, certifying the proceedings, is also filed in this cause. In the body of this paper, it is stated that the election is held "in compliance with what is ordered by the Political Chief, on the 4th November of this year." The official account of the annual election by the electors of the Ayuntamineto is not produced, but Vallejo testifies that they were elected.

7. That annually thereafter an Ayuntamiento was regularly elected, and exercised jurisdiction over the newly organized Pueblo, embracing the present site of the City of San Francisco, up to the period of the conquest by the Americans. This is abundantly established by the documentary and oral evidence in the cause.

8. That within a few weeks after receiving the Governor's despatch of the 4th November, the Commandant actually went upon the ground with a number of citizens, marked out and designated the boundaries as specified in the despatch, and returned an expediente or official account thereof to the Governor at Monterey. All this is positively sworn to by Vallejo, as a matter distinctly within his recollection; and he mentions the names of several persons now deceased whom he remembers to have accompanied him in thus marking out the limits of the Pueblo. These are facts about which Vallejo cannot have been mistaken. He has either wilfully perjured himself, or the facts which he thus testified to, occurred as he relates them. His character for veracity stands wholly impeached, and in no material particular is his testimony contradicted.

9. That the existence of the Pueblo, has been recognized in numerous official documents from 1834 to 1846, emanating from the Territorial Legislature, the Governors, Alcaldes, and other high functionaries. For example on 31st January, 1835, Governor Figueroa addressed a communication to "Senor Alcalde Conste, de San Francisco de Asis." On the 26th October,

1835, Jose Castro, then Governor ad interim, addressed a communication to the same Alcalde, informing him that on the 22d of the previous month, the Territorial Deputation had "approved that the Ayuntamiento of this Pueblo have power to grant house lots, which should not exceed one hundred raras, for the building of houses in the place called Yerba Buena, at a distance of two hundred raras back from the beach; the grantees paying the fee which is fixed by law, as pertaining to the propios, and binding themselves to construct their buildings in accordance with the best police regulations. I repeat this to you in order that you may make it known to your neighbors of that Pueblo, that they may not come with their memorials to this Government for favors which the Ayuntamientos have power to grant."

This important document establishes several undeniable facts, to wit: 1st, it admits distinctly the existence of the Pueblo, by designating it as such; 2d, it recognizes the "place called Yerba Buena" as within the jurisdiction of the Ayuntamiento and as a part of the Pueblo; 3d, it establishes that Yerba Buena, was embraced within the propios or municipal lands of the Pueblo. The site of the present City of San Francisco, is the same formerly known as the Village of Yerba Buena, and consequently is within the limits of the Pueblo referred to by Governor Castro. The existence of the Pueblo is further established by the official statement of the primary selection of electors on the 3d December, 1837, and the subsequent election of the Alcalde and other officers of the Pueblo, on the 8th January, 1838; also by the proclamation of Governor Alvarado of the 17th June, 1839, for the organization of the constitutional system established by the law of 30th November, 1836, in which proclamation the various Pueblos are specially named (and amongst them that of San Francisco), and are required to hold elections as prescribed by said law; also by the proclamation of Governor Micheltorana of November 14th, 1843, in which the several Pueblos are required to hold elections in pursuance of the law of March 20th, 1837. The Pueblo of San Francisco is one of these named in the proclamation. On the 11th March, 1844, the same Governor (Micheltorana) addressed an official despatch to the "Alcalde de San Francisco", enclosing an extract from an order addressed to an office at the Presidio, directing him to march with a file of soldiers to Yerba Buena, and there place himself under the direction of "the Alcalde or 1st Justance (sic) of Yerba Buena", for the purpose of suppressing a riot.

On the 15th January, 1846, Sanchez, a retiring Alcalde of the Pueblo, delivers to Noe, a Justice of the Peace, all the archives of the Pueblo from its foundation, in 1835, up to that date, with an inventory or index thereof. This document is dated at Yerba Buena, 15th January, 1846; and from the index it appears that the archives from 1829 to 1834 inclusive, were in charge of the "Military command"; but in the subsequent years, of the "civil tribunal", thus strongly corroborating Vallejo's testimony, as to the founding of the Pueblo in the latter part of 1834, or early in 1835; up to which period, the Military Commandant had exercised also civil powers, which ceased on the organization of the Ayuntamiento in January, 1835. The fact that the inventory is dated at Yerba Buena establishes, at least prima facie, that the archives of the Pueblo were kept at that place, and this is a strong, if not conclusive cercumstance, to establish both the existence of the Pueblo and that Yerba Buena was within it.

10. It is established beyond the possibility of doubt, by the proof already adverted to, and the testimony of the witnesses, that a Pueblo was established and regularly organized, and that it was known as the Pueblo of San Francisco,

or Berba Buena; and this Pueblo we claim, embraced the land marked out by Vallejo, by whatsoever name the Pueblo may have been called.

On the whole I consider the proposition conclusively established, as to the founding of the Pueblo and marking out its limits.

I propose now briefly to consider what objections are likely to be urged by the Law Agent adversely to the conclusions I have deduced on this branch of the case, and as far as possible to anticipate the argument on the other side.

1. It will be claimed that the document dated November 4th, 1834, purporting to be a dispatchfrom Gov. Figuerca (sic), and certified by Zamorano, secretary, is not an authentic document. It purports to be a copy from an original, and to be attested by Zamorano, the Governor's secretary, The witnesses, Richardson, Alvarado, Hartwell (sic) and Castro, testify that they were well acquainted with Zamorano, and knew his hand-writing; and in their opinion, neither the body or the signature to this instrument is in his hand-writing. This however, is but a matter of opinion, as to the hand-writing of a party, twenty years ago, about which they may have easily been mistaken. On the other hand, Vallejo, who had quite as good an opportunity to acquire a knowledge of the hand-writing, testifies in strong terms to its genuineness; and he further deposes, that he has been in actual possession of this identical document ever since its date, with the exception of a short period during his captivity after the "Bear Revolution" of 1846, and with the exception, also, of about three months, during which his papers were in possession of Desaldo. He further testifies, that he has a distinct recollection of receiving from Figuerro, about that date, a dispatch similar in purport, and of which he believes this to be an accurate copy. The original he delivered to the Alcalde de Haro, and after performing the duties devolved upon him in the dispatch, he made an expediente of the whole transaction, which he sent to the Governor at Monterey. Is it possible that Vallejo could be mistaken in all this? There is no room for such an inference; and if the facts he deposes to never occurred, it simply presents a case of wilful false-swearing, of which there is not the slightest ground for suspicion. The absence of all motive to perjure himself, the numerous corroborating circumstances, all sustaining his testimony, and above all, the irreproachable and highly honorable character of the witness, all repel the presumption that he has in any respect varied from the truth. The fact that such a document existed, is established and fortified by the following strong chain of corroborating circumstances:

1. That on the 3rd of November, 1834, the Territorial Deputation, by its decree of that date, directed the Governor to do precisely what he purports to have done, and what Vallejo swears he did do, by his despatch of the following day.

2. The certificate of the primary election held at the Presidio, on the 7th of December, 1834, distinctly and in terms refers to "the notice of the Political Chief on the 4th of November of this year", as the authority for holding the election.

3. An Ayuntamiento had jurisdiction only co-extensive with a Pueblo. Its municipal authority did not extend beyond the limits of the Pueblo for which it was chosen. That an Ayuntamiento was organized, and that its sessions were to

have been holden at the Presidio, I presume will not be contested by anyone. Is not the inference irresistable, that in proceeding to organize the Ayuntamiento, the Governor, as the first step towards it, would cause to be defined the territorial limits of its jurisdiction? This he did in the dispatch of the 4th of November. A neglect to define the limits of the Pueblo, would be like organizing a town council under our system, for a city, without limits, or a county court for a county without boundaries. There is inherent in the very nature of the corporation, a limit to its territorial jurisdiction; and as there could not be an Ayuntamiento, without a Pueblo, so there could not be a Pueblo without boundaries, either expressly assigned to it, or fixed by some general law or custom. The first step, therefore, in establishing the Pueblo, was to fix its boundaries; and this the Governor did in his dispatch of the 4th of November; and by his other dispatch of the same date, he directed the Ayuntamiento to be organized -- both being indispensable to the establishment of the Pueblo.

4. Captain Halleck testifies that amongst the archives, whilst at Monterey, he saw papers, (not now to be found), being correspondence between the Governor, Military Commandant, and Alcaldes of the Presidio and Pueblo of Yerba Buena and San Francisco, (which names were used indifferently,) in which the municipal and common lands of the Pueblo were frequently mentioned; and he further deposes that amongst the archives at this place, in the Alcalde's office, he recollects to have seen a paper, (not now to be found,) and which was a letter from Governor Figuerca, subsequent in date to the 4th of November, 1834, in reference to the boundaries of the Pueblo, which were to be fixed by military authority. He also found many other papers in the Alcalde's office relating to the boundaries, and which consisted of official letters, decrees, &c., all of which are now missing, and cannot be found. This testimony strongly fortifies Vallejo's statement, and I think is conclusive evidence of its verity.

5. William A. Richardson, whose testimony is much relied upon by the Law Agent for the Government, deposes as follows: "I have heard of a grant of land to a town or Pueblo called Yerba Buena;" and Juan B. Alvarado, another witness for the government, says in reference to Yerba Buena, "At one time some portion of land was designated to this town, by the Political Chief; as regards the limits, I do not recollect of their ever having been fixed as a town." This, at all events, tends to show that some lands were assigned to the town of Yerba Buena, and to that extent fortifies Vallejo's statement.

6. The testimony of Julius K. Rose and Henry L. Ford, establishes that Guerrero and Hinckley, two of the Alcaldes under the former Government, and who had for many years resided at this place or the Mission, and are now deceased, described the boundaries of the Pueblo lands precisely as they have been defined by Vallejo. One of them (Guerrero) produced a map or sketch of the Pueblo, and pointed out to witness the lines on the map, and afterwards went with him on the ground and pointed them out there.

All these facts tend conclusively to establish the authenticity of the despatch of the 4th November; and to render it certain whether the signature of Zamorano be genuine or not, it is, at all events, evident that such a document did exist; and whether the one in evidence be in fact an attested copy, or only a copy of a copy, is wholly immaterial, provided the Court

is staisfied that the original existed.

2. On behalf of the Government, it will probably also be insisted (sic) upon, as a fair inference from the proof, that if a Pueblo was established at all, it was a Pueblo formed out of the Mission lands, and in furtherence of the law for the secularization of the Missions; and that Vallejo has confounded that Pueblo with the other, which he supposes to have been founded in 1834. Let us see how far the facts proved will support this inference. In the first place, it will be conceded, I presume, on all sides, that a Pueblo was founded in 1834, either wholly upon the Mission lands, or upon the lands claimed to be embraced within the Vallejo line, or upon the two jointly. No one can read the proof in this cause, and doubt for a moment that a Pueblo was established upon one or the other, or both these tracts. What proof is there in the cause, to show that the Pueblo was to be formed exclusively of the Mission lands? I insist there is none whatever. No witness has testified to such a fact, and not a document in evidence proves, or, in my judgment, tends to prove it. If such a Pueblo was established, no limits were ever assigned to it, no lands set apart for it, and no ayuntamiento organized for its government. There was but one Ayuntamiento; and though this held its sessions sometimes at the Mission, and sometimes at the Presidio, yet it is undeniable that it was first organized at the Presidio. The first primary election for electors to choose the members of the Ayuntamiento, was held at the Presidio. The first meetings of the Ayuntamiento, after it was chosen, were held at the Presidio. Alvarado proves this, and Halleck testifies that amongst the archives at Monterey, he saw about a half dozen letters from the Alcalde of this Pueblo to the Governor, concerning the holding of the sessions of the Ayuntamiento of the Mission instead of the Presidio. The Governor at first refused to sanction the change, but subsequently assented to it. Motives of convenience doubtless prompted the change. The mass of the population resided at the Mission, and there were suitable buildings there for the transaction of business; whereas there were only a few soldiers and indifferent buildings at the Presidio. With so small a population and so little business to transact, it was not very material whether the Ayuntamiento met within the Pueblo at the Presidio, or at the Mission, a few hundred yards across the line; and therefore the Governor consented to a change in the place of meeting, -- little dreaming, perhaps, that so trivial a circumstance within a few years would afford ground for an argument affecting the rights of a city of fifty thousand inhabitants, and property of almost incalculable value. There is another fact which tends conclusively to establish that the Mission was not embraced within the Pueblo, as established in 1834, to wit: that no lots were granted at or about the Mission, by the Alcalde, or under the authority of the Ayuntamiento, so far as the proof shows. This is a pregnant circumstance, and is scarcely reconcileable with the hypothesis that the Ayuntamiento considered the Mission lands as within its jurisdiction.

For the following reasons, therefore, I infer that the Pueblo was not established exclusively on the Mission lands, to wit: 1. Because no witness proves the fact, and no documentary evidence establishes it. 2. No limits, or common lands, were ever assigned to such a Pueblo. 3. The decree of the Territorial Deputation, on the 3rd of November, 1834, directs that the Ayuntamiento shall reside at the Presidio. 4. The first primary election, and the first meetings of the Ayuntamiento, were held at the Presidio. 5. The place of meeting could not be changed without the assent of the Governor. 6. No lots or lands were granted, under the authority of the Ayuntamiento, at or about the Mission.

I will now proceed to state why I infer that the Pueblo was founded within the limits described by Vallejo. 1. It is positively sworn to as a fact within his knowledge, by Vallejo, who is a credible and unimpeached witness. 2. It is proved by the dispatch from Governor Figuerra, of the 4th of November, 1834. 3. Vallejo swears that the Ayuntamiento had jusisdiction only within the limits of the Pueblo; and as the Ayuntamiento was organized at the Presidio, and held its first meetings there, and could hold them no where else without the consent of the Governor, the inference is irresistable that the Presidio was within the Pueblo. 4. The Alcalde granted lots at Yerba Buena, which he could not lawfully have done if it had not been within his jurisdiction. 5. No lots were granted by the Alcalde, outside of the Vallejo line. 7. Guerrero and Hinckley, two of the Alcaldes, now deceased, described the limits of the Pueblo precisely as they are defined by Vallejo. 8. A number of the witnesses speak of the "Pueblo of Yerba Buena", and it is so designated in many official documents. Richardson, a witness for the government, in referring to the limits of the town as defined on his map, says: "these limits of the Pueblo of Yerba Buena were approved by the Territorial Government." Alvarado says, the Pueblo of Yerba Buena was known by the people of the country by the name of Yerba Buena; but by persons who came by sea it was called the Port of San Francisco. Halleck says that in official documents, which he saw amongst the archives, it was termed indifferently "Pueblo of Yerba Buena" or of "San Francisco." 9. In the grant to the DeHaros for the Potrero Nueva, lying just south of Mission Creek, the north line of that grant is made subject to the line of the pueblo, so as to avoid infringing on the pueblo lands. Jimeno, the secretary of the Governor who made the grant, stated to Halleck, that it was so made because the Governor did not know precisely where the south line of the Pueblo was; but Jimeno supposed it to be about Mission Creek. This is a distinct recognition of a Pueblo north of Mission Creek. 10. The inventory of the archives of the Pueblo, made by the retiring Alcalde in 1846, is dated at "Yerba Buena"; thus showing that the archives were kept at the latter place; which would not have been the case if it had not been within the Pueblo. 11. Everything favors the presumption, that the Governor in 1834, perceived the necessity of establishing a Pueblo, at this place, for the convenience of the shipping, and in view of the fact that an important commercial town was likely to grow up at Yerba Buena. This was the place of anchorage for all the shipping; and Richardson admits that he perceived at a very early day, its advantages in a commercial point of view. Hence, he applied to the Governor as far back as 1825, and again in 1828, for a grant of land on the beach, between Rincon Point and Clark's point. His petition was refused, and he renewed it in 1834, and again in 1840; but always without success, because, as there is every reason to believe, the Governor foresaw the importance of reserving the lands fronting the beach, for purposes of commerce. Governor Figueroa had his attention specially directed to it in 1834, as appears from Richardson's testimony. He told Richardson that he had seen a communication of his to Governor Echendea (sic) respecting the anchorage at Yerba Buena, and inquired of him as to the possibility of laying off a town there. Richardson furnished him a sketch of the ground, and as he deposes, was soon after instructed to make a map of the town, which he did in October, 1835. At this period, Richardson was the only settler at Yerba Buena; and yet in view of its commercial advantages, the Governor directed a town to be laid out. Entertaining these views of its importancc (sic) and future growth, it is not surprising that the Governor, in the latter part of the year 1834, ordered it to be erected into a Pueblo. 12. The peculiar location of the ground rendered it especially proper that

it should be erected into a Pueblo. Surrounded on two sides by the Bay -- on a third by the Ocean, and on the remaining side by the Mission lands and Mission Creek -- commanding as it does the entrance from the Ocean to the Bay, and embracing not only the Presidio and Old Fort, but the anchorage for vessels, the most superficial observer could not have failed to perceive that it was destined speedily to become one of the most important points on the Pacific Coast. It is scarcely probable that its advantages were overlooked by Governor Figueroa; and therefore, in breaking up the Mission establishment, he would very naturally have decided what should be done with the important peninsula to the north of it. That he would proceed to erect it into a separate Pueblo is almost a necessary conclusion from the facts; and that he did do so, I think is abundantly established in proof. On the whole, there is no room to doubt, in my judgment, that but one Pueblo was established, and that within the limits described by Vallejo. 13. It will probably be argued by the Law Agent that no lands were ever assigned to Yerba Buena except those embraced in Richardson's map or sketch of the plan of the village. The argument on this point will be chiefly predicated on Richardson's testimony, which is by no means freed from suspicion. But conceding to the fullest extent the truth of all he deposes to, it establishes literally nothing in opposition to the views I have presented. The sum and substance of it is, that in October, 1835, he waa directed by Jose Castro, Governor ad interim, to make a plan of the village about to be commenced at Yerba Buena -- that he did make the plan, which was approved by the Governor and Legislature, and that he never heard of any other allotment of lands to the town than this. Richardson, in his testimony, is very minute in defining the boundaries of the plan made by him, and considerable stress is laid upon the fact that no provision was made for extending the boundaries as the population would increase. Hence, it is argued, the only town lawfully established was that embraced by Richardson's map. I confess I am at a loss to understand how all this can, in any degree militate against the idea that the Pueblo was established in 1834. As the settlement of Yerba Buena was about to be commenced, it was quite natural that the Governor should cause the particular spot for the village to be designated and laid out into streets and blocks, both for the sake of uniformity, and with a view to the granting of buildings lots to the inhabitants. But the fact that a plan for the village was formed and adopted, no more disproves the existence of a Pueblo, than the laying out of a county town would disprove the existence of the county, or the founding of a State capitol the existence of a state, or the location of a village on a farmer's lands would prove that he owned no lands outside the village. So far as the founding of the village in 1835 proves anything germain to the subject, it certainly fortifies the inference that the Pueblo had already been established, and the village about to be formed was to be the nucleus off the new settlement. As a necessary part of the new Pueblo, there was needed a village in which building lots could be granted, and to which the municipal lands were to be appurtenant. The founding of the village, therefore, very speedily follows the establishment of the Pueblo; and instead of disproving the existence of the latter, is a strong circumstance in its support.

Against this overwhelming mass of testimony, all tending to maintain the fact that the Pueblo was established, as asserted by Vallejo, what proof has been offered in rebuttal, by the Government? I think I am justified in saying none whatever, except a few trivial facts, not inconsistent with the positions I have assumed, and for the most part of a purely negative character.

For example, there are several witnesses -- Richardson, Alvarado, Castro, and perhaps others, -- who testify that they never heard of the allotment of the lands and the marking out of the boundaries, as described by Vallejo. That may be so; and yet it goes a very little way toward establishing that the lands were not assigned and the boundaries fixed; and as opposed to the affirmative testimony of Vallejo, Halleck, Rose, Ford, and others, and especially the strong documentary evidence in the cause, is not entitled to the weight of a feather.

Richardson, Alvarado and Castro were not residing here in 1834, and therefore could have no personal knowledge of the making out of the boundaries. If they heard of it at the time, they may well have forgotten it; and there is nothing improbable in the assumption that they did not hear of it, though the facts proved by Vallejo all transpired. In the then rude state of the country, when property was of little value, and the population was engaged almost exclusively in the breeding of cattle, but little attention was given to public affairs; and the fact of marking out a new Pueblo, embracing a territory almost uninhabited, was not likely to excite any special interest, or become a subject of general notoriety. Lands were of little or no value, as is proved by the enormous grants made gratuitously by the Government to private citizens; and it is altogether probable that the founding of the new Pueblo excited so little interest at the time, that it was but little talked of, and soon forgotten by the majority of those who heard of it. There were then no newspapers in California, to keep before the public the history of passing events; and no eager land speculators, on the look-out for good bargains in water-lots, (except perhaps the witness Richardson, who at a very early period had an eye upon the space between Rincon and Clark's Points;) and no cunning traders, claiming a monopoly of the whole of this valuable peninsula -- one Jose Y. Limantour, whose name has since become very familiar to the people of this city, not having then made his advent into California. It is easy, therefore, to comprehend why the witnesses referred to may not have heard of so unimportant an event as the founding of a new Pueblo, in a territory almost without inhabitants; and still more easy to understand why they may not now remember it, even though they heard it at the time. Richardson, the chief witness relied upon by the Government, testifies under circumstances well calculated to excite suspicion as to his fairness.

He was in the City of Mexico in June, 1852, and met his former acquaintance, Lemantour, there, and conversed with him about the enormons (sic) claim which the latter was then about to assert, to almost the whole of the lands claimed by the city in this case; and yet, according to Richardson's testimony, not a word was said between them as to the boundaries of the Pueblo lands, or the limits of the village of Yerba Buena. Lemantour must have known that Richardson was the first settler at Yerba Buena, and in conversing about the claim of the former to lands of such immense value, bounding on the village, it is certainly a little strange that nothing was said about the limits of the town. Richardson further testifies that when Viogel was making his map of the village, in 1839, he (Richardson) was very particular in pointing out to him the old limits, as defined on Richardson's map. Viogel remembers nothing of this, and says, on the contrary, that he never saw or heard of Richardson's map until it was shown to him at Richardson's house about a year ago, by Lemantour. His position as a witness is, to say the least of it, equivocal; and if the facts he deposes to were really im-

portant, (which they are not,) his testimony is entitled to but little weight.

On the whole, no testimony entitled to be seriously considered has been offered by the Government, to rebut that adduced by the claimant. But though the claim of the city, in my judgment, is satisfactorily established, it is quite evident that very much of its most important documentary evidence has been lost by the destruction and mutilation of the archives at Monterey, and by the ravages of fire, and from carelessness or fraud in relation to the archives in the Alcalde's office at San Francisco. The testimony of Capt. Halleck is conclusive on this point. If therefore important links should be wanting in the chain of documentary proof, its absence may be readily accounted for by the facts referred to. Considering that the archives at Monterey, for many weeks, were piled up in a loose heap, on the floor of a room used as a hospital for soldiers and marines, and were used as waste paper; and in view of the fact that no provision was made by law for preserving the archives in the Alcalde's office, and that several destructive fires have swept over that portion of the city in which the public offices were situated; the only matter of surprise is that we have been able to present so much documentary proof, and not that we have not offered more.

I conclude, therefore, that we have fully established the fact that the Pueblo was formed, and its limits defined, in November, 1834.

The next point to be considered is, whether or not the Governor and Territorial Deputation had the lawful authority so to establish the Pueblo; and on this point I shall offer a few remarks.

In the first place, it is a principle very often recognized by the Supreme Court of the United States, that "the acts of an officer to whom a public duty is assigned by his Government, within the sphere of that duty, are prima faciae, taken to be within his power." (United States vs. Aredondo, 6 Pet. 691; United States vs. Percheman, 7 Pet. 51; United States vs. Clarke, 8 Pet. 436.)

In Delassus vs. United States, (9 Pet. 134,) the Court says "A grant of concession made to that officer, who is by law authorized to make it, carries with it prima faciae evidence, that it is within his powers. No excess of them, or departure from them, is to be presumed. He violates his duty by such excess, and is responsible for it. He who alleges that an officer intrusted with an important duty has violated his instructions, must show it."

So far has the principle been carried, that "where the act done is contrary to the written order of the King, produced at the trial, without any explanation, it shall be presumed that the power has not been exceeded; that the act was done on the motives set out therein, and according to some order known to the King and his officers, though not to his subjects." (Strother vs. Lucas, 12 Pet. 438.)

In United States vs. Percheman, (7 Pet. 95,) the Court says: "Papers translated from a foreign language, respecting the transactions of foreign officers, with those powers and authorities we are not well acquainted, containing uncertain and

incomplete references to things well understood by the parties, but not understood by the Court, should be carefully examined before we pronounce that an officer, holding a high place of trust and confidence, has exceeded his authority."

In the case now under consideration, the act in question, to wit, the establishment of a new Pueblo, was done by the Governor and Territorial Deputation, exercising the highest political power conferred upon any officer or body politic in the Departments of the Mexican Republic. They were authorized to grant lands, collect taxes, and by suitable laws provide for the general welfare; and by the act of the 17th of August, 1833, were specially authorized to secularize the Missions and convert them into Pueblos. All police and economic regulations were peculiarly within the sphere of their powers, and I think it is evident that upon the principles established in the decisions above quoted, the Court will infer that they had the power to do what they have done. But if it be incumbent on us to show, in express terms, the authority to perform the act, the task will not be a difficult one.

The decree of the Departmental Deputation of the 3rd of November, 1834, directing the Governor to proceed to the election of an Ayuntamiento for the new Pueblo is stated by Governor Figueroa, in his despatch to Vallejo of the 4th of November, enclosing a copy of the decree, to have been predicated on the powers conferred upon the Deputation by the law of the 23rd of June, 1813. The first section of that law is as follows:

"Art. 1. It being the duty of the Provincial Deputations to see to the establishment of Ayuntamientos in the Pueblos where there are none, in the manner prescribed by article 335 of the Constitution, they shall take an exact account of the number of inhabitants in each Pueblo where an Ayuntamiento is to be establissed, (sic) so that if of itself or with the adjoining district it should have a population of one thousand souls, one be established immediately; or if the population do not amount to that number, but for other reasons of public utility it would be necessary to establish it, that the "expediente" be formed proving this fact; these proceedings and those which the Deputation may form, having previously obtained the necessary information from towns in the district, relative to the limits of the Pueblo where the new Ayuntamiento is to be established, will be remitted by the Political chief, with the assent of the Deputation, to the Government."

This law continued in force after the independence of Mexico, and plainly prescribed the duties of the Deputation, in the establishment of Ayuntamientos in the new Pueblos. It may be argued, however by the Law Agent, that by this law the Deputation could only establish the Ayuntamiento where the population of the new Pueblo of itself, or with the adjoining district, amounted to one thousand souls; and that otherwise the matter was to be referred to the Government for its approval. Conceding, for the sake of the argument, that this is the proper interpretation of the Act, I maintain, 1st, that the Deputation is to decide the fact whether or not there is sufficient population (to wit, 1000) to authorize the immediate establishment of the Pueblo, and if it proceeds to establish it, the law will infer that it was properly done, and that the power was lawfully exercised. It is a familiar principle, that where certain preliminary steps are to be taken by a public officer, in the performance of a duty, he will be presumed to have done all that was essential to give validity to the act. When the Deputation

therefore decided to establish the Ayuntamiento, the law presumes it had taken all the necessary preliminary steps for that purpose; 2d, it is evident, that where the population was ascertained to be less than one thousand, the Deputation, under the law above quoted, was nevertheless to proceed to establish the Ayuntamiento, if reasons of public utility demanded it; in that event, however, transmitting a copy of its proceedings, and a statement of the limits of the Pueblo, to the Government for its approval. In the meantime, until this approval was had, the Ayuntamiento proceeded to perform its functions, and until disapproved by the supreme Government, would continue in office as fully in all respects as if its organization had been expressly ratified. I may remark here also, without much digression, that the reference by Figueroa to the Act of 23d June, 1813, as the authority for the proceedings of the Deputation, affords another convincing proof of the formation of the Pueblo. That portion of the Act which confers the authority, relates exclusively to the establishment of Ayuntamientos in Pueblos where none before existed. The proceeding, therefore, under this Act to establish an Ayuntamiento is a distinct admission of the fact that there was a Pueblo requiring an Ayuntamiento.

Inasmuch, therefore, as it was incumbent on the Deputation and Political Chief to provide Ayuntamientos for new Pueblos, and in fact to administer all the internal affairs of the department, there is no room to doubt that they were fully authorized to establish new pueblos. The remote and isolated condition of the frontier provinces rendered it indispensable that this power should be confided to the home functionaries, without the necessity of applying to the Supreme Government. It is scarcely probable, that in California, two thousand miles nemoved from the Capital of the Republic, no power was delegated to the highest local functionaries to perform so unimportant an act as the founding of a new pueblo for the convenience of the inhabitants, or the benefit of trade and agriculture. On the breaking up of the Missions, as we have seen, this power was expressly conferred, in reference to the Mission establishments; nor can it be doubted, I think, that the same power before existed in reference to pueblos generally. In the case of the Missions, it required a special delegation of authority, because the Mission lands had before then been excepted from such uses, and dedicated to another purpose.

This concludes all that I have to submit, in reference to the establishment of the Pueblo, and defining its boundaries.

I proceed now to the last proposition, which I shall bring to the attention of the Board, to wit: That on the 7th July, 1846, the town of Yerba Buena or San Francisco was in existence, and that by the 14th section of the Act of Congress, of March 3d, 1851, organizing this Board, a grant will be presumed.

The section above referred to, provides "that the provisions of the Act shall not extend to any town lot, or pasture lot, held under a grant from any corporation or town to which lands may have been granted for the establishment of a town by the Spanish or Mexican Government, or the lawful authorities thereof; nor to any city, or town, or village lot, which city, town or village existed on the 7th day of July, 1846, but the claim for the same shall be presented by the corporate authorities of the said town, or where the land on which the said city, town or village was originally granted to an individual, the

claim shall be presented by or in the name of such individual; and the fact of the existence of the said city, town or village on the said 7th July, 1846, being duly proved, shall be prima faciae evidence of a grant to such corporation, or to the individual under whom the said lot-holders claim."

In this provision the Government has exhibited another proof of its liberality towards the towns and villages of the newly acquired territory. It has placed them upon a favored footing, and given them the fullest benefit of all presumptions in their favor. As in 1812, they confirmed by a special act, all the village claims in upper Louisiana, without any other proof of title than that derived from prior occupancy, so in this enactment they require no other proof of title to city, town, or village lots, than that the town existed at the time when the United States took possession of the country on the 7th July, 1846. But it will be perceived that the act provides for two classes of cases, to wit: 1st, town lots, farm lots and pasture lots, "held under a grant from any corporation or town to which lands may have been granted for the establishment of a town by the Spanish or Mexican Governments or the lawful authorities there of"; and, 2nd, city, town or village lots, "which city, town or village existed on the 7th day of July, 1846." In either case, the claim is not only to be presented by the corporate authorities, but the fact that the town existed on the 7th July, 1846, will raise a presumption of a grant. The question, however, will naturally arise, "a grant for what?" Is it for all the land claimed, or for that embraced by the limits of the town as they were known and recognized or established by law on the 7th July, 1846? The latter is my construction of the Act. If, for example, the town claims under no grant from the former Government, and is, therefore, entitled to no "farm lots" or "pasture lots", then its claim can only extend to the limits of the town, as they were known or established on the 7th July, '46. But, if it claims farm lots and pasture lots, by virtue of an alleged grant, then on proving the limits embracing the said lots as the same were known or established on the said 7th day of July, a grant shall be presumed co-extensive with those limits.

The act can scarcely mean, that where farm-lots and pasture lots are claimed there must be actual proof of a grant before the town can claim the benefit of the Act. If it could establish the grant in proof, it would stand in no need of the presumption which the Act raises in its behalf. It would rest upon the grant itself as a sufficient title, and the section above quoted would be a mere nullity, so far as it relates to this class of cases.

It is obvious, I think, that where farm lots and pasture lots are claimed, it is only incumbent on the town to prove the boundaries of such lots as they were known or established on the 7th of July, '46, and then the law will presume a grant to that extent, any other construction than this renders the Act a piece of useless verbiage, so far as it affects farm lots and pasture lots. But Congress manifestly designed to confer some especial benefit upon the claimants of town and pasture lots. It did not first say to them, "first prove you have a valid grant, and then the law, as a special boon, shall presume a grant." It meant no such mockery as this; but simply, as before stated, that on proof of the boundaries as they were claimed or known in July, '46, a grant shall be presumed for all the land within the boundaries. That this is the proper construction is proved by the last clause of the section, which provides

that "where any city, town or village shall be in existence at the time of passing this act, the claim for the land embraced within the limits of the same may be made by the corporate authority of the said city, town or village." This clause establishes a third class of cases, to wit: those in which the city, town or village did not exist on the 7th July, 1846, but did exist at the passage of the Act. In the latter case the claim might be presented by the corporate authorities; but there was to arise no presumption of a grant. This is the distinguishing feature between the last class and the two former ones; and the reason is perfectly obvious, to wit; that when the towns existed, whilst the country was under the dominion of Mexico, the United States would require no evidence of a grant, carrying out the same liberal policy which was extended by the Act of 1812 to the villages of upper Louisiana. But where the towns were purely of American growth, and sprung up after we took possession of the country, there was no motive for the same liberality, and no reason whatever why a grant should be presumed. I think this interpretation of the act is too obvious to require further argument, and I conclude that in the case of farm and pasture lots, all that is needed to raise a presumption of a grant is, that they were claimed as such on the 7th July, 1846, and to establish their boundaries as claimed.

But what is meant in the Act by "farm lots and pasture lots?" The Courts of Missouri have had considerable difficulty in determining what was meant in the Act of 1812 by "town or village lots, out lots, common field lots and commons, in, adjoining, and belonging to the several towns", &c. The difficulty has arisen chiefly in construing the terms "out lots" and "common field lots"; but, as I do not propose to enter at length into a discussion of those terms, I refer the Board to the following cases, in which the whole subject has been elaborately treated by the Supreme Court of Missouri:---

Page vs. Scheibel, 11 Mo. R. 167.
Harrison vs. Page, 16 Mo. R. 182.
Kissell vs. Schools, 16 Mo. R. 553.
Hammond vs. Schools, 8 Mo. R. 65.
Trotter vs. Schools, 11 Mo. R. 69.
Eberle vs. Shcools, 11 Mo. R. 247.

From an examination of these cases, it will appear that in ascertaining the meaning of those terms, reference must be had to the laws, usages and customs of the former Government. When the Act of 1812 speaks of a "common field lot", it of course intends to designate something which was known by that description, under the customs and usages of the former Government. So when the Act of March 3d, 1851, speaks of "farm lots and pasture lots" as appurtenant to a village, it necessarily refers to lands which, according to the usages of the Mexican Government and people, come under that designation. Congress evidently meant by that description what would more properly perhaps have been designated as common lands and municipal lands, (egidos and propios,) the former being used for pasturage and the latter for cultivation. These were the only lands appurtenant to a town, except garden lots, (suertes,) and the inference is irresistable that it was the "egidos and propios", to which Congress refers as "farm lots and pasture lots". Otherwise, these terms can have no effect as applied to a Mexican village; and considering that at the passage of the Act, we had but recently acquired the country, and were not familiar with the tenure by which village lands were held, the terms employed by Congress should not be

very accurately criticised, but should receive such a construction as will most effectively carry out the liberal views entertained by the Government in reference to these village claims. I conclude, therefore, that the terms "farm lots and pasture lots" are synonymous with common lands and municipal lands, or "egidos and propios". According to the views I have presented, it is incumbent on us, in order to come within the provisions of the 14th section, to prove two facts, to wit: 1st, that the town existed on the 7th July, 1846, which has been proved and will not be denied; 2d, that at that date, there were "egidos and propios" claimed and known as such, with defined limits, and which were appurtenant to the town. This fact, we insist, has been conclusively established by the testimony of Vallejo, Halleck, Rose, Ford, and others, as well as by the documentary evidence; and therefore, under the 14th section, the law will presume a grant to the extent of these limits,

Upon this ground we claim to be entitled to a confirmation to the Vallejo line.

I have thus at great length, and perhaps with more minuteness of detail than was necessary, presented my views of this important cause. But the magnitude of the interests involved, and the numerous questions of law and fact, (some of them novel and complicated in their character,) which have arisen in the progress of the cause, must be my apology for the prolixity with which I have discussed them. It is the first time in the history of the United States, and perhaps of the world, when the title to all the real estate in a city of fifty thousand inhabitants is to be submittd (sic) in a single cause to a judicial tribunal. In such a cause I am duly conscious of the vast responsibility which rests upon the counsel and the Court; and now having now to the best of my ability, discharged my duty, I respectfully submit the cause to the Board for its decision.

J. B. Crockett

Of counsel for Claimant.

San Francisco, 16th May, 1854.

UNITED STATES LAND COMMISSION FOR CALIFORNIA.

Claim for Four Leagues of Pueblo Lands.

Opinion of the Majority of the Board Confirming the Claim to Pueblo Lands.

THE CITY OF SAN FRANCISCO
versus
THE UNITEDSTATES.
No. 280.

This claim is presented by the municipal corporation known as the City of San Francisco, State of California, embracing so much of the peninsula whereon the said city is situated as will contain an area equal to four square leagues, as described in the petition.

The petitioner alleges that in pursuance of the laws, usages, and customs of the Government of Mexico, and an Act of the Departmental Legislature of California of the ninth of November, 1833, (1834) and proceedings in pursuance thereof, the Pueblo of San Francisco was duly created and constituted a municipal corporation, with a municipal Government, and with all the rights, properties and privileges of Pueblos under thethen existing laws during the said year 1833, (1834) and that there was then and there by the Supreme Government of Mexico in the manner by law prescribed, ceded and granted to the said Pueblo for town lands and for common lands, all and singular the premises described in their said petition.

That the said Pueblo was the proprietor of all said lands except so much as had been granted by the authorities thereof in pursuance of law--and the said Pueblo continued its existence as such municipality and proprietor until and after the accession of the United States Government, July 7, 1846, and until by an Act of the Legislature of the State of California, entitled an Act to Incorporate the City of San Francisco, the inhabitants and property of said Pueblo were incorporated into a city, which city now exhibits her claim to the premises aforesaid. The said Act of Incorporation, and the Act amendatory of the same being made part of said petition.

The petition then goes on to enumerate certain adverse claims within the limits of the premises petitioned for, which said claims are alleged to be illegal and void, and concludes with an averment, that by the treaty of Guadalupe Hidalgo-the law of nations-the laws, usages, and customs of the Mexican Government in California-as also by the said Act of Incorporation, and the Act of Congress of the United States entitled "An Act to Settle Private Land Claims in California," approved March 3d, 1851, the said City has a good and lawful claim to all and singular the premises aforesaid. Wherefore she prays a confirmation of the same, etc.

As a preliminary inquiry to the examination of the merits of this claim, it may be proper to consider, in the first place, the true construction of the act of the 3d of March, 1851, in reference to the presentation of claims of this character.

The authority of the Commission to take cognizance of claims to lands in California is derived from the eighth and fourteenth asections of the Act. The eighth section provides that each and every person claiming lands in California, by virtue of any right or title derived from the Mexican or Spanish Government, shall present the same to the Commissioners when sitting as a Board etc. This section if it stood alone and without qualification would embrace all persons, whether natural or artificial, includinging bodies politic or corporations as well as individuals. But the

fourteenth section was clearly intended to exclude from the general provisions of the eighth section, lots and lands held under grants from any corporation or town to which lands had been granted for the establishment of a town by the Mexican or Spanish Government, as well as the lots and lands held or claimed by any city, town, or village, which was in existence on the seventh day of July 1846; and provides that the claims for the same shall be presented by the corporate authorities of such city, town or village. This enactment was evidently predicated upon the action of Congress in reference to the rights of the towns in the Territory of Louisana to the lands within their limits, as ememplified in the act of the thirteenth of June 1812. In that case, Congress by one general Act released and confirmed to the inhabitants of the towns enumerated all the lands which had been held and cultivated by them according to their several rights or rights in common, thereby clearly intending that where the right of the town had been transferred to an individual, such confirmation should inure to his benefit and where the land was still held in community it should remain for the common benefit of all the inhabitants of the town. Reasoning from the analogy presented by this case, it is a legitimate inference, fully sustained by the language of the section itself, to assume that it was the intention of Congress in the fourteenth section, to provide a mode by which the claims to lots and lands held in severalty by individuals under grants from the town, as well as those claimed as the common property of the inhabitants, might be presented in one general claim for the benefit of each and all, thus avoiding the necessity of encumbering the docket of the Commission with a multiplicity of individual claims, all held under one common right or title.

The fourteenth section, so far as it is applicable to the point under consideration, reads as follows: "Be it further enacted, That the provisions of this Act shall not extend to any town lot, farm lot, or pasture lot, held under a grant from any corporation or town, to which lands may have been granted for the establishmenr of a town, by the Spanish or Mexican Government, or the lawful authorities thereof; nor to any city, town or village lot, which city, town, or village existed on the seventh fay of July 1846; but the claim for the same shall be presented by the corporate authorities of the said town" etc.

The declaration with which the section commences, to-wit: that the provisions of the Act shall not extend, etc., was clearly intended to apply only to the eighth section, and to prescribe a mode of presenting the claim described in the fourteenth section different from that provided for the claims generally in the eigh. It should, therefore, read, that the provisions of the eighth section of this Act shall not extend, etc. To adopt any other construction, would either exclude this class of claims altogether from the jurisdiction of the Commission, or involve the absurdity of making Congress declare that the provision of the Act should not extend to them, thus making them out of the cognizance of the Board, and in the same section prescribing a mode by which they shall be presented for its consideration and decision. This incongruity, according to every rule of construction laid down in the books, should be avoided, and such an interpretation given to the whole law, if it can be fairly done, as will reconcile its inconsistencies, and carry out its true intent and meaning. (2 Cranch 358; 14 Peters, 178; 3 Howard, 1.) This can only be done by adpting the construction given above, and we therefore think that the Commission derives its jurisdiction over this class of cases from the fourteenth section alone, and that the claim is properly presented under its provisions by the corporate authorities of the City of San Francisco.

In the examination of the merits of this claim, three leading points or propositions present themselves for our consideration:

FIRST: Was there an organized municipal corporation or town existing on the present site of the City of San Francisco on

on the seventh day of July, 1846?

SECOND: What was the character and extent of the rights of Pueblos or townsin lands assigned for their use and benefit, under the laws of Spain and Mexico?

THIRD: What is the effect and extent of the presumption in favor of the rights of such Pueblos or towns to lands, created by the fourteenth section of the Act of the third of March, 1861, for the settlement of land claims in California?

In discussing the first proposition we shall consider it principally with reference to the acts of the public authorities as shown in the official documents which have been filed in the case, and their legal effect, as explained by the laws on which they are founded, rather than the vague recollections of witnesses as to what was or was not done some fifteen or twenty years ago.

Before proceeding to the examination of the nature and effect of those acts and documents, it may be proper to recur very briefly to the character of the political and and civil organization as originally established in Upper California.

The first settlements in the country were made by a small body of Franciscan Friars, accompanied by a few soldiers and settlers, in the years 1769 and 1770; the first, under the command of Ferdando de Rivera, at San Diego; and the second at Monterey, under Gaspar de Portala, who was constituted the Governor of the newly formed province. Missions were established by the Friars in the vicinity of these ports, and in less than ten years these establishments had been increased to the number of eight , extending from San Francisco on the north to San Diego on the south. The Missionary establishments were situated in the neighborhood of the best harbors on the coast, but some distance inland, and were under the direction and control of the Franciscan Friars, who devoted t themselves to the Christianizing and civilization of the Indians and their instruction in the various arts of civilized life. The Presidios, or military posts, were located immediately contiguous to the harbors or ports, and were intended to afford protection to the Missionary establishments from the attacks of the savage Indians. All the civil functions of government were exercised by the commanding officers of the Presidios, in subordination to the Comandante of Monterey, who usually filled the office of Governor of the Province.

The purpose intended ti be effected by this system was the ultimate erection of the several Missionary establishments into Pueblos or communities to be composed of the Christianized xx Indians as soon as they should become sufficiently civilized and instructed in the arts of social life, at which time it was proposed to substitute a regular municipal organization for the ecclestastical system to which they were subjected during their period of pupilage. (See Figueroa's Manifests, p.41) In the mean time it was supposed that the Presidios would form the nuclei of other communities, from the settlements around them of the retired soldiers and their families, and accessions from the immigration of other settlers of the white race; and from their location at the principal seaports of the country, that theyr would in process of time become important commercial towns and cities.

In accordance with this idea, we find the earliest instructions relating to the settlement of California, issued by Don Antonio Bucareli y Urusu, August 17, 1773, conferring upon the Commandants the power to designate common lands and to distribute lands in private property to such Indians as by their industry and devotion to agriculture and the bree ding of cattle might merit the same. They were likewise empowered to distribute lands in the same manner to other settlers, clearly meaning those of the white race as contradistinguished from the Indians, but in both cases the grantees were required to live in the towns and not dispersed

This condition of residence in towns eveidently has reference to the municipal system which seems to have prevailed in Spain from the earliest period of her history, and which constituted

the basis of all her laws and regulations for the formation of settlements in her American possessions. This system was in full operation in Mexico when her separation from the mother country occurred; and although there appears to have been a strong tendency on the part of the inhabitants of California to depart from it, and to live dispersed on their ranchos, still all the laws, orders and decrees of the Government having any bearing on the subject appear to be made with reference to that peculiar organization, and even as late as the organic law of 1837 we find a provision requiring the inhabitants to live in the towns. This idea should be kept prominently in view in order to understand the true meaning and effect of the laws and regulations, and the acts of the authorities performed in conformity therewith, which will come under our consideration in the course of this examination, as it will tend to remove much of the obscurity and apparent inconsistency which they present to us, accustomed as we are to a system so entirely different.

According to this view of the subject, it would seem that the Missions and Presidios constituted from their first inception quasi Pueblos, the former under the charge and superintendence of the Missionary Priests, and the latter under that of their respective Commandants, who, in addition to the military authority, exercised all the functions of civil magistrates in the Presidios and the adjoining districts. This state of things continued in the Missions and in all the Presidios, except that of Monterey, which had been previously erected into a Pueblo, with a municipal Government until the year 1834, when Governor Figueroa, conjointly with the territorial deputation, adopted and promulgated a plan of "Propios and Arbitrios" for the Ayuntamientos in Upper California. About the same time steps were taken for the secularization of the Missions, and their erection into Pueblos, under the law of the Mexican Congress of the seventeenth of August, 1833; and the Presidios of Santa Barbara, San Diego, and San Francisco were relieved from the civil jurisdiction of the Military Commandants, and a municipal organization, consisting of an Alcalde, Regidores, and Procurador Sindico, constituting the Ayuntamiento or Coundil, substituted in its stead.

The question here arises, whether this organization constituted the former Presidio of San Francisco a town or village within the meaning of the fourteenth section of the Act of Congress of the third of March, 1851.

The Spanish word "Pueblo" means, in its original signification, the people or population generally; it also means the inhabitants of a particular place, but in its more restricted signification it means a town or village, or any collection of persons residing in the same place, and corresponds to our general term "town", as applied to similar collections of houses and people whether of greater or less extent. This last is the sense in which the word is used in the various laws and official documents to which reference will be made in the course of this examination.

Owing to the state of confusion and disorder consequent upon the conquest of the country by the Americans, much of the official documentary evidence in relation to the civil organization which superseded that of the military commandants of the Presidio has been lost or destroyed, and the authenticity of a portion of that introduced has been called in question by the counsel representing the Government. The following documents, however, whose authenticity is unquestioned, have been introduced in evidence:

FIRST. A traced copy of a portion of the official records of the Territorial Deputation, duly certified from the archives of the Mexican Government in California, now in custody of the United States Surveyor General, from which it appears, that an extraordinary session of that body, held on the third day of November, 1833, the following propositions were adopted: "Ist. That the Political

Chief direct the District (Partido) of San Francisco to proceed to the election of a Constitutional Ayuntamiento, to be established in the Presidio of that name, to be composed of one Alcalde, two Aldermen (Regidores), and one Town Attorney (Syndico Procurador), conforming for that purpose in all respects to the constitution and the laws of the eighteenth (twelfth) of July, 1830. 2d. That report be made through the proper channel to the Supreme Government for an approval."

SECOND. A communication from the political chief José Figueroa, addressed to the Commandant of the Presidio of San Francisco, of which the following is a translation.

"SEAL OF THE POLITICAL GOVERNMENT OF UPPER CALIFORNIA.

"The most Excellent Territorial Deputation, using the powers conferred on it by law of the twenty-third June, 1813, on yesterday passed the following instruction:"

(Here follow the resolutions of the Deputation as copied above.)

"And I transcribe it to you for your information and compliance, recommending that the election be carried into effect on the day appointed by said law of the twelfth of June. I also notify you that the Ayuntamiento, when installed, will exercise the political functions, which the laws, for want of a Judge of Letters, confer upon him, you remaining restricted to the military command alone, and receiving in anticipation the thanks due for the prudence and exactness with which you have carried on the political government of that demarcation. God and Liberty, November 4th, 1834."

JOSE FIGUEROA."

"To the Military Commandant of San Francisco."

THIRD. A document marked No.2, and annexed to the deposition of M.G. Vallejo, of which the following is a translation:

"In the Presidio of San Francisco the seventh day of December, 1834, the municipality of this demarcation assembled in the house of the Comandancia, the corresponding order of convocation being previously given, for the purpose of holding the Primary Junta for voting for the electors, who are to meet in Secondary Junta on the first following Sunday, for the purpose of electing the individuals who are to compose the Ayuntamiento for this comprehension, and who are to hold office for the coming year of 1835 in compliance with whatis ordered by the Political Chief on the fourth of November of this year, in virtue of the resolution on the matter bybthe most Excellent Territorial Deputation, after the election of four Secretaries proceeded to the election of twelve electors, which number according to the assembled municipality was found to correspond to it, and having counted the votes from which these resulted by majority, citizen Ignacio Peralta with twenty-seven votes, Francisco Sanchez with twenty-three, Francisco Soto with twenty, Joaquin Castro with nineteen, Jose de la Cruz Sanchez with seventeen, Francisco de Haro with sixteen, Manuel Sanchez with fifteen, Antonio Castro with twelve, Marcos Briones with nine and Apolinario Miranda with nine, from which it resulted that the said gentlemen were elected, and they were notified of it, and the act being concluded, the President and Secretaries signed the present act."

"Signed: FRANCISCO De HARO,
FRANCISCO SANCHEZ,
JOAQUIN CASTRO,
JUAN MIRANDA."

FOURTH.- A similar document, marked No.3, and annexed to the same deposition, certifying the election of nine electors on the thirteenth of December, 1835, for the purpose of selecting an Alcalde, two Rejidores and a Sindico Procurador for the year 1836. This document differs in no essential particular from the one above quoted, except that it is dated in the Pueblo of San Francisco, and certifies the election to have been held in the Plaza of said Pueblo, upon the call of the Constitutional Alcalde for the preceding year, and was presided over by that officer. The certificate of the election for 1836 is not produced, but that for 1837 is introduced and proven asExhibit No.8 to the deposition of Vallejo, and is to the same effect with the one last mentioned. The proceedings of the Secondary Junta in the choice of the Ayuntamiento for the year 1838, are also filed as Exhibit No.9 to said deposition, from which it appears that Francisco de Haro was duly elected Alcalde; Domingo Saens, Second Rejidor and Jose Rodrigues, Sindico. It appears from the evidence of M.G. Vallejo and Francisco Sanchez, that the Ayuntamiento was for the first time duly organized and installed on the first day of January, 1835, in the Presidio, and elections regularly held for their successors in the months of December thereafter until the year 1838, after which they were superseded by the new organization established by the Constitution of 1836, and the Organic Law of March, 1837, by which the functions of that body devolved on the Justices of the Peace, appointed by the Governor. It appears also from the same testimony, that the elections were all held at the Presidio, and the Ayuntamiento resided at, and held its sessions at the same place until sometime in the year 1838, when the Governor, for the greater convenience of the members, authorized them to remove to the Mission of San Francisco, or, as it was more commonly called, Dolores. It is worthy of note that the certificate of the first election held in December, 1834, and prior to the organization of the Ayuntamiento, is dated at the Presidio of San Francisco, while each subsequent one is dated in the Pueblo of the same name, or San Francisco de Asis; and all the earlier communications from the Governor to the Alcaldes were addressed in the same way, or to the Alcalde of Yerba Buena, but evidently having reference to the same officer and the same civil organization. Some stress is laid by the Agents of the Government on this difference in the names which seem to have been indifferently applied to the organization we are considering, and an attempt is made in the evidence to show that San Francisco and San Francisco de Asis were different places, the former term being used to designate the Presidio, and the latter the Mission; and hence it is argued that the establishment of the Pueblo, if one was established at all, was at the Mission. This view of the subject, however, cannot, in our opinion, be sustained. It is evident from the whole testimony in the case, that both the Mission and Presidio were named after the same saint, Francisco, and that the additional words "de Asis" were equally applicable to both, being nothing more than the place in Italy in which the Saint was born or resided, and were simply added to distinguish him from other saints of the same name--as, for instance, San Francisco Salano, after whom was called the Mission on the opposite side of the Bay, in the district of Sonoma. A number of official communications from the several Governors, from Governor Figueroa in 1835 to Governor Pico in 1846, all of which are addressed to the Alcalde of San Francisco, San Francisco de Asis, or Yerba Buena have been introduced and proved in the case. These, according to the testimony of Mr. Hallek, constitute all that can now be found

of the voluminous archives and records, which according to the same testimony and the inventory delivered over by the retiring Alcalde in 1846, were contained in the Alcalde's office a short time previous to, and for some time after, the conquest of the country. The others have either been lost or were destroyed in the numerous fires with which the city was visited during its brief career as an American town. In many of the communications above referred to, the existence of a Pueblo under the name of San Francisco and San Francisco de Asis is fully recognized otherwise than by the simple address to the Alcalde of the Pueblo of that name. The first of these, to which we shall refer, is an order from General Castro, dated Monterey, October 26th, 1835, and addressed to the Alcalde of San Francisco de Asis, setting out "that the most excellent territorial Deputation, in their session of the twenty-second of September, approved that the Ayuntamiento of that Pueblo should grant town lots (solares) which do not exceed one hundred varas, for the building of houses in the place named Yerba Buena, at the distance of two hundred varas from the sea-shore, paying to that Ayuntamiento the fees which may be designated to it as belonging to the propios and arbitrios, and being subject to observe the order for the formation of a town in lines for its better police, which I communicate to you, that you may make it known to the inhabitants of that Pueblo, in order that they may not apply with their memorials to this political government, as it is one of the favors which the Ayuntamiento may grant."

By reference to the proceedings of the Territorial Deputation of the twenty-third of September, 1835, referred to in the foregoing, we find that the action of that body was predicted upon the petition of Jose Joaquin Estudillo to the Governor, praying for the privilege of erecting a house in the place called Yerba Buena, and also a grant of 200 varas for cultivation. This petition was referred by the Governor to the Territorial Deputation, by which it was referred to the Commission on Government, who reported as follows;

"The Commission on Government ordered to give an opinion on the petition of the citizen Jose Joaquin Estudillo, a resident of the Town (Pueblo) of San Francisco, wherein he solicits the privilege of building a house in Yerba Buena, and also requests two hundred varas square of land to cultivate. The Commission thinks that no obstacle would be in the way of making this grant notwithstanding its topographical position, being immediate to the beach, on equal terms with other residents (vecinos) who are occupying lands, because they have not met with any reasons to prevent them the use near the beach--and moreover although it may be granted, it belongs to the propios of the Ayuntamiento of San Francisco, and it should be subject to the tax (canon) to which other lands of the propios which have been granted are subject. Wherefore, the Commission concludes with the following proposition:

"There can be granted to the citizen Jose Joaquin Estudillo the lot for a house, without going beyond the quantity of varas set forth in Article 15 of the regulation of Colonization and also the two hundred varas he solicits."

On the twenty-second of September, 1835, the report and resolution of the Committee was taken up for consideration, and the foregoing proposition was discussed and approved. Mr. Alvarado then moved that a general provision be made through an additional article, that the Ayuntamiento of San Francisco may grant building lots at a distance of two hundred varas from the sea shore, in order to encourage in this way the residents to form a village. The Committee then moved it, and proposed the following article, which was approved:

"ADDITIONAL ARTICLE.- That the Ayuntamiento of San Francisco may grant such building lots at a distance of two hundred varas from the sea shore, and allow other residents to settle there under the same restrictions, observing the regular order of a town in a line for its better police." This last resolution is clearly the authority under which the order of Governor Castro of the twenty-sixth of October, 1835, was issued, and is in fact substantially embodied in the order itself, and taken in connection with the whole proceedings on the subject, has a most material bearing on the point under consideration. We remark first, that both the petition of Estudillo and the report of the Committee describe the petitioner as a vecino--translated "resident" -of the Pueblo (Town) of San Francisco. By reference to Escriche, we find the legal definition of the term vecino to be, "he who has established his residence in any town (pueblo), with intention to remain therein. This intention is reputed as proved by the course of ten years, or by other facts that show it; as if one settle his property at a place and buys other at such place to which he removes his abode." Law 2d, Tit.24, Part 4; Law 6th, Tit.4, Lib. 7, N.R. ..... "The vecinos of each Town (pueblo) are subjected to the taxes and contributions of the same chargeable upon them; they enjoy the right of pasture and common, and other rights pertaining to them as such, to the exclusion of foreigners and non-residents."

The same report, after deciding in favor of the particular grant, goes on to declare that the land belongs to the propios of the Ayuntamiento of San Francisco, and it should be subject to the same tax (canon) which is fixed as to others to whom lands of the propios are granted. By referenceto "the plan of propios and arbitros for the municipal lands of the Ayuntamientos of Upper California," adopted by the Territorial Deputation, and promulgated by Governor Figueroa August 6, 1834, we find the following provisions:

"ARTICLE FIRST.- Tha Ayuntamientos will proceed by the ordinary channels to solicit that to each Town (pueblo) be assigned land for egidos and propios.

"SECOND- The lands of the propios which may be assigned to each Town (pueblo) will be subdivided into middling and small sized lots, and may be leased, or given with the reservation of an annual tax, at public auction. The actual possessor or possessors of the lands of the propios will pay such annual ground rent as may be imposed upon them by the Ayuntamientos--the report of three honest and intelligent men being previously had.

"THIRD.- For the concession of a building lot for the erection of a house, the interested party shall pay six dollars and two reals for each lot of one hundred varas square, and thus progressively or diminutively they shall pay two reals for each front vara."

The tax or fee of six dollars and two reals, provided for in the Third Article of the above plan, is clearly that referred to in the order of Governor Castro and the report of the Committee as the canon or tax to which the individual was subject to whom lands of the propios were granted for building lots. This is shown by the deposition of Lees and other testimony in the case from which it appears that the above sum was required for the grant of one hundred vara lot in Yerba Buena, and a reduction or addition of two reals for each front vara in diminution or excess of that quantity.

In addition to these documents, a number of others have been filed in the case, all recognizing the existence of a Pueblo called San Francisco, embracing the present site of the City of the same name. For instance: 1st. The order of Governor Alvarado for the organization of the new "Exhibit No.10, to the deposition of M.G.Vallejo," in which San Francisco is classed as a town with San Jose, Villa de Branciforte, North; 2d. The order of Governor Micheltorena, of the fourteenth of November, 1843, marked "Exhibit No.11" to said deposition, in which the classification occurs; 3d. A communication from the same Governor, of March 4th, 1844, marked "Exhibit No.14," addressed to the Alcalde of San Francisco, containing an order to the Ensign, Don Juan Prado Mesa, directing him to report with certain men under his command, to the Alcalde, to whom the communication was addressed, was styled indifferently the Alcalde of Yerba Buena and of San Francisco, that the political organization over which he presided was known and styled officially by both names, and that the place called Yerba Buena was within his jurisdiction, and was in fact the seat of his Juzgado or Court.

FOURTH.- An inventory of the archives, and articles contained in the Alcalde's office, delivered over by the retiring Alcalde to his successor in office, dated at Yerba Buena, January 15th, 1846, from which it appears that at that date, being the last year of the Mexican dominion in California, the civil authority of the Pueblo was located at Yerba Buena, and not at the Mission Dolores.

FIFTH.- A traced copy of a document from the archives containing the petition of a number of the inhabitants residing on the north side of the bay, but within the jurisdiction of the Port of San Francisco, praying to be attached to the "authority of the Pueblo of San Jose, being under the jurisdiction of the judicial officer who may be appointed by the Alcalde of the said San Jose, as the capital of the district," together with the proceedings of the Government, and the report of the Ayuntamientos of the various Pueblos on the subject.

This document shows that at the time the memorial bears date, there were two separate adjoining jurisdictions, having for their respective capitals the Pueblos of San Jose and San Francisco, each of said towns being the seat of an Ayuntamiento--that of the latter being located as Pueblos or Towns exercising civil jurisdiction over theiradjoining demarcations or districts. San Jose was the first Pueblo in California, and was founded by express authority from the King of Spain. No doubt has ever existed as to the character of this organization, or that it was a town with a municipal government. These proceedings recognize the organization of San Francisco as of precisely the same character, with the same power and facilities. If, therefore, San Jose was a Pueblo or Town San Francisco must have been one also.

There are other documents filed in the case to the same effect, but we do not think it necessary to refer to them more particularly, as those already cited are sufficient to present fairly the evidence relied on by the claimant to sustain this branch of the case.

To this evidence it is objected on thepart of the agents of the Government:

FIRST. That it is not sufficient to show the establishment of a pueblo or municipal corporation for the Government of a Town under the laws of Spain and Mexico; and

SECOND.- That if such a corporation was established, it was at the Mission of San Francisco or Dolores, and did not embrace the site of the present city.

We will first consider the objections with reference to the constitution and laws bearing on the question, and the effect of the action of the territorial authorities as disclosed in the official documents filed in the case.

The word "Ayuntamiento" is defined in the dictionary to mean "A corporation or body of magistrates of Cities and Towns, composed in Spain of a Coregidor, Alcalde, and Regidores--the first corresponding to Mayors, and the latter to Aldermen, in England."

Escriche defines it to be "An Assembly or Junta, composed of the Justices or Alcalde, Regidores, and others charged with the administration, or the economico-political government of each Pueblo. It is sometimes called Cabildo, rejimiento, municipality and municipal body." These definitions show, and it is in fact admitted in the argument, that the term Ayuntamiento, in its general and usual signification, meant a town council, or municipal body for the government of a town. It is, however, contended that the character of this organization was charged by the Spanish Constitution of 1812, and laws of the Cortes passed in pursuance thereof by reason of which the Ayuntamiento was constituted a political body, as contra-distinguished from a municipal council, with a jurisdication extending over the surrounding district or Partido.

To sustain this porposition, the following proofs and authorities are mainly relied on:

FIRST.- The resolution of the Territorial Deputation, and the order of the Governor Figuetoa, communicating the same to the military commandant of the Presidio, directing the election of an Ayuntamiento by the Partido of San Francisco, together with the fact (as appears from the testimony of Sanchez) that the electors who chose the Ayuntamiento were voted for by the inhabitants of the country on both sides of the bay, embracing a large extent of territory.

SECOND.- That the law under which this organization was had, contemplated the constitution of a political government for a district, and not a municipal government for a Town.

THIRD.- Thatthe sessions of the Ayuntamiento were subsequently removed from the Presidio to the Mission Dolores, from which it is argued that the organization of the Ayuntamiento did not necessarily imply the establishment of a Pueblo; and

FOURTH.- The testimony of Sanchez, Castro, Alvarado, and others, tending to show that no Pueblo ever existed on the present site of the City of San Francisco.

We have given the constitution and laws, referred to as the basis of the action of the Territorial authorities in the establishment of Ayuntamientos, a most careful examination, and we are free to admit that there is much obscurity as to the nature and extent of the jurisdiction exercised by those bodies; but we have been able to discover nothing in them which changed their original character as municipal corporations charged with the economico-political government of cities and towns. On the contrary all the provisions of the Constitution of 1812, and laws of the Cortes relating to them, and their duties and functions as prescribed in those laws, were of a strictly municipal character, and most of them could only have reference to regularly organized towns. In Article 309 of the Constitution, it is provided that Ayuntamientos shall be established for the interior government of the Towns (Pueblos), composed of an Alcalde or Alcaldes, Regidores, and the Procurador Sinidico.

ARTICLE 310. Provides that Ayuntamientos shall be placed in Towns (Pueblos) where there are none.

Art. 312. That the Alcaldes, Regidores, and Procurador Sindico shall be by election in the Pueblos.

Art. 313. That in the month of December of every year, the citizens of every Pueblo shall assemble and elect a certain number of electors, who shall reside in the same Pueblo.

Art. 314. Provides for the election of the Alcalde or Alcaldes, Regidores, and Procurador Sindico, by said electors.

Art. 319. Provides, as a qualification of those officers that they shall be citizens, twenty-five years of age, with at least five of vicinage and residence in the Pueblo, (con cinco a lo menos de vecinidad y residencia en el Pueblo).

Art. 321. Prescribed the duties and functions of the Ayuntamiento, all of which are strictly municipal in their character such as the administration of the propios o arbitrios; the framing of municipal ordinances of the Pueblo, etc.

The decree of the Spanish Cortes, of the twenty-third of June, 1813, in which the duties and powers of the Ayuntamiento are enumerated more in detail, is to the same effect,- all its provisions having reference to the economico-political government of the Towns (Pueblos), and many of them are applicable only to Towns with houses, streets, public squares, etc., as the term is usually received and understood in English.

Chapter 2 of the decree last above cited, entitled, "Of the obligations and duties of the Territorial Deputations," provides as follows: "Article 1. It being the duty of the Provisional Deputations to see to the establishment of Ayuntamientos in the Towns where there be none, in the manner prescribed by the three hundred and thirty-fifth Article of the Constitution, they shall take an exact account of the inhabitants in each Pueblo where an Ayuntamiento is to be established--so that if of itself, or with its comarca (district), it shall have a population of one thousand souls, one shall be established immediately; or if the population do not amount to that number, but for other reasons of public utility it should be necessary to establish it, let the instructive espediente be formed, which makes them apparent. These proceedings and those which the Deputations may form, having previously obtained the necessary information from the coterminous Towns relative to the designation of limits (terminos), to the Town where the new Ayuntamiento is to be formed, will be remitted by the Political Chief, with the consent of the Deputation, to the Government.

The decree of the Cortes of the twenty-third of May, 1812 entitled, "Of the formation of Constitutional Ayuntamientos," provides:

ARTICLE 1. That any town which may have no Ayuntamiento, and where population may not amount to one thousand souls, but which, owing to its peculiar circumstances, such as the state of agriculture, industry, or the nature of the population itself, may consider that they ought to have an Ayuntamiento, may make a representation to the Deputation of the Province, that in virtue of the report the Government may provide as it may think fit.

ART. 2.- The Towns in which these circumstances may not occur, will remain annexed to the Ayuntamiento to which they may have belonged up to this date, until their political condition may require change; those which have been lately formed, and those which may have been so formed formerly, but which are now without the requisite population, attaching themselves to thenearest Ayuntamiento of their Province.

ART. 3.- Provides for the abolition of the perpetual offices of Regidores and other officers of the Ayuntamiento, and prescribes the manner of choosing their successors and their term of office.

ART. 4,5.- Prescribe the number of these officers which shall be assigned to each Pueblo in proportion to its population.

ART. 6- Provides for the election of electors to choose

the officers to compose the Ayuntamiento.

ART. 7. For the election of the Ayuntamiento by theelectors so chosen.

ART. 8. Provides that, "To facilitate the appointment of electors, especially where the large population, and the division or distance of the Towns or Pueblos which must be joined to establish their Ayuntamiento may render it troublesome, there shall be held meetings of the Parishes," etc. etc. The remainder of the Article, and Article 9, 10, and 11, go on to prescribe the number of electors for each Parish, and the mode of proceeding in their election, etc.

These laws prove very clearly that the Ayuntamiento exercised jurisdiction over a considerable extent of territory, in addition to its special authority as the municipal government of the Town proper in which it was established; and that such jurisdiction might even embrace other Towns (Pueblos) which had no Ayuntamiento of their own. But this fact does not by any means change theirncharacter as a municipal organization or Town council.

An examination of the laws of Spain on this subject shows that such was common to those bodies from their first institution under the Fuero de Leon, promulgated by Alonzo the Vth, in the year 1050, and has in effect been continued to the present day. In elucidation of this subject, we quote from the elaborate brief of Mr. Hawes, filed in this case on the part of the Government, the following extract from a work entitled "Leyes Fundamentales de la Monarquia Espanola," by the R.P. Fr. Maguin Ferrer: "As a result of the invasion of the Moors, the dominions of the King of Spain had been reduced to the mountains of Asturias. It was proposed to reconquer the country, and the chiefs of the people who had united with D. Pelayo continued in the meantime acquiring lands, and the King gave them the government and the property in the lands of certain Pueblos, while he himself remained owner of the lands of other districts (comarcas). By degrees as this system, created by circumstances, acquired consistence--so that no one perceived that it had acquired the character of a system--the peinciple became firmly established that the King was to be considered in two characters -- the one as particular lord of the Pueblos and lands conquered, which continued as his own private patrimony, andin this respect he was on a footing of equality with the other lords in regard to their respective estates; the other as universal lord (Senor) of the Kingdom, or that which is the same thing, as the soverign, and in his character he commanded the subordinate lords and gov - erned the kingdom." "When the King gave lands to the lords (Senors) it was considered that he gave them not only the dominion and property in the fields (campos), the vineyards, the woods, the houses, etc., but that he gave them, likewise, the right of government and jurisdiction over the persons who inhabited the lands,-so that the particular lords were the proprietary governors and judges of their respective dominions, administering them comfortably to the general laws of the kingdom." "Thus passed three centuries, the King governing the monarchy as universal lord, and customarily administering the affairs of the Pueblos of his own patrimony as their particular lord. But in the year 1050, or 1012 perhals Alonzo V, desiring to give more regularity and solemnity to the political and judicial administration, called together the Council of Cortes, and promulgated the special laws called the Fuero de Leon among others of a general nature promulgated for the whole kingdom. This is themost ancient Fuero (charter or franchise) which can properly be so called, and in it are comprehended some thirty laws reputed as municipal, inasmuch as their observance was restricted to the City of Leon and its Termino or Alfoz--the district over which the municipal government extended its jurisdiction."

The term "Alfoz" according to Escriche, is formed from "Al" and "Fopoz" two Aribic words, meaning a meadow or flat land, and was anciently used to denote the place comprehended in the jurisdiction of a Town or Seignory, or even the jurisdiction itself; and the word "termino" as used here, and in other places where it occurs in the Spanish Law, in a similar sense, means the district of a Town.

The system in Spanish, as shown in the foregoing extract, which grew up after the expulsion of the Moors, differed but little from the feudal system as it existed in most of the other countries of Europe, and the first blow which was given to the power of the grandees and nobles owing to the influence exercised by the Cities and Towns which grew up under the charters that either through necessity or policy had been given to them by their respective soverigns or lords. In Spain, the example of Leon was soon followed in respect to other places until at length the municipal system was adopted generally in all the principal Cities and Towns throughout the dominion of the monarchy, both in Europe and America, and laws were passed for the establishment and building up of new Towns on the same system in her vast unsettled possessions on this continent.

According to this system the Cities and Towns to which "fueros" or charters were granted, were created into quasi Seignories, exercising in addition their municipal functions within their respective Towns, where the Ayuntamientos were established, a general political and judicial authority over the termino or district which was assigned to them on their creation. This district was generally called the termino or comarca of the Town - the former word being also used in its general sense, to denote the limits or boundaries of the district. This is exemplified in Article 310 of the Spanish Constitution of 1812, already quoted, which makes it obligatory to establish Ayuntamientos in those Towns in themselves, or with their comarca (district) shall contain a thousand souls; "and likewise there shall be designated to them their corresponding termino," meaning district with defined limits or boundaries; and in Article 1 of Chapter 11 of the law of twenty-third June, 1813, for carrying out this provision of the Constitution, the designation of termino or limits and boundaries to the district was to be made upon the informe of the coterminous Pueblos. This whole subject is so clearly illustrated in the royal decree of King Ferdinand the Seventh, for the establishment of the municipal authorities of the Town of Manzanillo, contained in Mr. Hawes' brief, page sixteen, that I cannot forbear quoting such parts of it as bear upon the point under consideration:

"Don Fernando VII, by the grace of God, King, etc. In a letter of the fourteenth of May of the year 1830, my Governor, Captain-General of the Island of Cuba, reported to me the Expediente formed at the instance of D. Sebastian Ramagoza. D. Pedro Olive, and D. Joaquin Clavelle, citizens of the new town called Port Royal of the Manzanillo in the said Island, with the intent that there should be granted to it the title of city or villa, independent of that of Bayamo (formed in 1815) with the right to have the local Government Sub-Delegate of the Royal Hacienda, Ayuntamiento, and Public Notary - it was ordered on the twenty-first of October, of the aforesaid year 1830, that my Governor, Captain-General, should appoint a person in his confidence, to proceed to the apeo (judicial survey) and demarcation of the lands of said Pueblo of Manzanillo, designating those necessary for propios, ejidos, dehesa de labor (pasture land for working ixen and horses) and pasturage of cattle; that he should mark out with possible exactitude the jurisdictional limits (terreno jurisdictional) which were to be assigned to it, and the partidos which it should embrace - that he should take proof of the exact number

of souls in Manzanillo and of the neighboring partidos, which it might be proper to include in its jurisdiction. In pursuance whereof, my Governor, Captain-General, committed the execution of the aforesaid proceeding to the Lieutenant-Colonel J. Fulgenio de Salas, who, as the result of his first investigation, manifested that the discharge of his commission was the work of a long time and would occasion a delay much to be regretted, in the indispensable separation of Manzanillo from the jurisdiction of Bayamo, which, without suspending the other measures, might be effected immediately, designating for the division line of the termino and jurisdiction of Manzanillo that marked by the Estero Cienega del Buey, river Gicotea, river Tarquino, as natural limits, closing the distance between the sources of the two rivers by two right lines, one extending from the Gicotea to the Buey, and the other from Tarquino; by which demarcation there remained in the new jurisdiction the partidos of Yara, Gua, and Vicana, leaving still in the jurisdiction of Bayama a territory much more extensive. The subject having been examined with all that mature deliberation which its importance exacted in my council of the Indies, they acquainted me with their opinion in a consulta of the fifth of June last, and conformably therewith I have determined to concede the title of Villa to the Pueblo of Port Royal of Manzanillo, in the Island of Cuba, with the said jurisdictional territory designated by the Commissioner, D. Fulgencio de Salas, and the establishment of an Ayuntamiento, composed of two ordinary Alcaldes, which my Governor Captain-General will appoint for the first time, and six regidores."

The proceedings of the Territorial Deputation of California, authorizing the Governor to establish a new town to be formed with an Ayuntamiento, by the colonists, under the direction of Tonans Hijar and Padres, which took place on the same day with those authorizing the Ayuntamiento at San Francisco, are in entire conformity with this view of the subject. The second article of the decree of the deputation declares that the new town shall be the capital of the district for the towns of San Rafael and San Francisco; and in the third article the distinction is made between the jurisdictional limits of the municipality and the limits of the town proper.

This review of the municipal system, as it has existed in Spain from time immemorial, and as illustrated in the documents above cited, removes much of the difficulty and obscurity, which, at a first glance, appears to be presented in the proceedings relative to the establishment of the Ayuntamiento of San Francisco and other towns in California, and in the laws on which they are founded. From it we gather that in Spain and Mexico the municipal corporations or Ayuntamientos of towns, in addition to their immediate function as a town council, exercised also political jurisdiction over an adjoining comarca or district, the limits of which were fixed at the time of its organization. This assignment of termino or jurisdictional limits, was entirely distinct from the designation of lands for egidos, propios, and dehesas de labor; these last were intended for the exclusive use and benefit of the corporate authorities and the vecinos of the town, and were under the special charge and administration of the Ayuntamiento. What were the rights of the towns in these lands we shall consider hereafter. This comarca or district might in fact embrace other pueblos, settlements or villages; the inhabitants of the district were designated by the term vecinos of the pueblo, and were entitled to all the right of common and other privileges of the town, and were subjected to the same taxes and contributions for municipal purposes. Indeed, according to the theory of the system, they were regarded as residents of the town itself, as at its origin they were in fact. We have already referred to the prominent feature of the Spanish law requiring the inhabitants to dwell in the towns and not disperse.

This policy was doubtless adopted for the mutual protection and security of the inhabitants; but as the country became more settled, and the protection afforded by the laws more certain and efficient, the inhabitants could gradually obtain portions of land in the adjoining districts, for the purposes of pasturage or cultivation, on which they erected houses for their temporary residence; and many preferring the independence of a country life would in pricess of time make them their permanent places of abode. This seems to have been the case very generally among the Mexicans in California prior to the American occupation of the country, and is still so throughout the territory of the Mexican Republic. But this residence beyond the limits of the town proper but within its jurisdictional termino, did not deprive them of any of the privileges of a vecino of the pueblo, or relieve them of any of the obligations or buddens to which they were subjected as such. For instance, they were entitled to ask for and receive grants of house lots in the town for building, suertes, and lots for cultivation in the common lands of the pueblo; and a preference was given them in granting the public lands within its jurisdictional limits. The town lands which were granted them, were generally coupled with a condition that they should be subject to the canon, or tax, which might be imposed upon them for municipal purposes. On the other hand, being subjected to the burden imposed by the municipality, and to the jurisdiction of its judicial officers, they were permitted to participate in the choice of those officers.

The application of these principles, which are, in our opinion, fully established by the laws, usages, and customs of Spain and Mexico in reference to the subject, to the case now under consideration, will remove all difficulty as to the character of the organization authorized by the decree of the Deputation and the order of Governor Figueroa of the fourth of November, 1834. They establish clearly to my mind that the effect of that organization was to erect the former Presidio of San Francisco into a pueblo, with a regular municipal government; that, as such, it became the cabeza or capital of the neighborkoing comarca or district over which the Ayuntamiento, as in the case of other towns, exercised civil juriddiction, and the inhabitants of which as vecinos of the new pueblo, were authorized to participate in h the election of the officers who composed that body. It will be observed that the district over which the Ayuntamiento exercised jurisdiction, is here called the Partido of San Francisco. This is easily explained. A partido was, under the laws in force, a judicial district, and designated the jurisdiction of a Judge of Letters.-(See Article 273 of the Spanish Constitution of 1812). But there was no Judge of Letters in California, and the functions of that officer were consequently devolved on the Alcalde within the jurisdictional limits of the Ayuntamiento. The district embraced by those limits, designated both the civil jurisdiction of the town authorities and that exercised by the Alcalde in his judicial capacity as Judge of Letters, and was therefore properly termed the Partido of San Francisco.- (See Order of Governor Figueroa, November 4th 1834) In the latter part of the year 1838 the sessions of the Ayuntamiento were, with the sanction of the Governor, removed to the Mission Dolores, in the immediate vicinity of San Francisco. This seems to have been done for the convenience of its members, and on account of the better accomodation afforded by the Mission buildings. This was the last Ayuntamiento which ever existed in San Francisco under the Mexican Government, and was, like all its predecessors, elected and installed at the Presidio. By the new Constitution of 1836, and the Organic Law of March 30th, 1837, the Ayuntamiento was abolished, and its functions devolved on Justices of the Peace, appointed by the Governor on the recommendation of the Prefect of the District.

The new system was formally inaugurated by Governor Alvarado in January, 1839; and in his order for that purpose (Exhibit No.10 to the deposition of M.G. Vallejo), San Francisco is recognized as the head of the partido for the frontier of the north. The Justices of the Peace appear to have continued in the exercise of the civil and judicial functions until the year 1845 when by an order of Governor Micheltorena (Exhibit No.11 to same deposition), these officers were again superseded by first and second Alcaldes, who appear to have administered the government of the pueblos and district up to the change of government in 1846. During the whole of the period the Pueblo of San Francisco seems to have been recognized in the official correspondence and public documents, upon the same footing and in the same class with Monterey, Los Angeles, San Diego, San Jose and other towns of the Department. The fact that the Ayuntamiento for a short time held its sessions at the Mission, and that the Justices and Alcaldes sometimes resided and held their courts at that place, or the vague recollections of witnesses, who held official stations under the former government, as to what was done, or their opinions as to the legal effect of their acts, cannot in our opinion counterbalance the overwhelming weight of testimony in favor of the establishment of a pueblo or town by the Mexican authorities in California, embracing the present site of the City of San Francisco and its continued existence down to the period of the American occupation on the seventh of July, 1846.

It is not proposed, nor is it considered necessary to go into a detailed examination of the testimony of the witnesses above referred to. By reference to their depositions it will be seen that while theyevince a strong desire to disprove the existence of a pueblo, the facts which they disclose tend to establish the opposite, and go very far to sustain the conclusion to which we have arrived from the documentary evidence and the laws applicable to the subject. Indeed, their whole testimony exhibits, when compared with their official acts, either an extraordinary obliquity of memory or gross ignorance of the character and effect of the laws under which they acted.

It is probable, from the testimony, that when the pueblo was first organized the site of the village or town proper was intended to be at the Presidio; but subsequently, from the superior advantages of the anchorage at the place called Yerba Buena that point was selected as themost eligible for that purpose. It appears from the deposition of Wm. A. Richardson, and the communication of Governor Castro annexed thereto (as Exhibit No.1) that in the autumn of 1835 Richardson was employed to lay off and make a plan of a town at that point, which plan was communicated to the Governor and approved by him; about the same time the resolution of the Deputation was passed, authorizing the Ayuntamiento to grant building lots at that place, which was communicated to the municipal authorities in order of Governor Castro of the twenty-sixth of October, 1835 (marked Exhibit No.5 to the deposition of Vallejo), and dated just six days after the communication to Richardson approving the plan of the town as submitted by him. There is an evident attempt in the testimony of Richardson to make it appear that the municipal organization here referred to was for a pueblo at the Mission Dolores or San Francisco de Asis, as it was indifferently called. But this is so palpably contradicted by the other evidence in the case, both documentary and oral, and so inconsistent with the other parts of his own testimony, as to entitle it to no weight whatever.

It is objected further, that even admitting these proceedings to be sufficient for the establishment of a pueblo sofar as the territorial authorities were concerned, that in order to give them effect and validity, under the law which authorized them theapproval of the Supreme Government was necessary.

This is unquestionable true, and we accordingly find that the resolutions of the Territorial Deputation directed that they should be communicated to the government at Mexico for that purpose. There is noevidence in the case that such approval ever was had, but the resolutions to that effect were doubtless sent to the Government by Governor Figueroa, as we can scarcely imagine that one who was so punctual and exact in the discharge of all his official duties, would have neglected it in this instance. The existence of the pueblo appears to have been uniformly recognized by the public authorities from that time, and its civil officers continued in the exercise of their functions without any question as to their authority or the legality of their acts up to the change of government, a period of near twelve years. Such approval, therefore, according to well recognized legal principles would be presumed.

After a careful examination of the whole testimony on this point, and the law applicable to the subject, we are brought to the conclusion that the effect of the proceedings of the territorial authorities in 1834, as shown by the official records and documents, for the establishment of the Ayuntamiento at the Presidio of San Francisco, and the subsequent organization of that body in conformity therewith, was to erect the Presidio into a pueblo or town, with all the civil and territorial rights which attached to such corporations under the laws of Mexico then in force.

The existence of the town being thus established, we are brought to the ~~conclusion~~ consideration of the second proposition presented in the case: What were the character and extent of the rights of pueblos or towns in lands assigned for their use and benefit under the laws of Mexico?

There can be no doubt that, under these laws, the pueblos or towns and their vecinos or residents, were entitled to the use and enjoyment of certain lands within prescribed limits, immediately contiguous to and adjoining the town proper. This right appears to have been common to the cities and towns in Spain from their first organization, and to have been incorporated by her colonies into their municipal system on this continent. It is fully recognized in all the laws and ordinances in relation to the settlement and government of her colonies during her supremacy over them; and the same system seems to have continued in Mexico, with bit little variation, since her separation from the mother country. The orders and decrees of the government, and the acts of the public authorities of Mexico on the subject, all refer to the laws and ordinances of the former government as still in force, and prescribing the rule of proceeding in relation to the establishment and regulation of the pueblos. In order, therefore, to ascertain the precise character and extent of their rights, we must refer to these laws and the practice under them, as evidenced by the orders, instructions, and regulations which have, at various times been promulgated to carry them into effect. We have shown in the former part of this opinion, that it was a fundamental principle of Spanish policy to collect the inhabitants of the countries, subject to her jurisdiction, in cities, towns and villages; hence we find all her laws and regulations for the settlement and colonization of her American possessions have reference to this policy and contemplate the establishment of a town with a municipal government as the first step in the formation of such settlements. The earliest of these laws were the celebrated Ordenanzas de Poblaciones first promulgated by Philip 11, in the year 1563, and afterwards incorporated in Recopilacion de Leyes Indies; where they constitute Laws 6, 7, and 10, Title 5, Lib.4. These laws appear to have remained in force in the Spanish possessions, with little variation down to the present time; and, in their general features, have

been always recognized in Mexico as the basis of the rights of the pueblos or towns to the lands held and occupied by them. Laws 6 and 10 of the Recopilacion provide for the establishment of new towns, either by contract with individuals, or by the voluntary association of a number of settlers. In the former case, atleast thierty vecinos were required, and the quantity of four square leagues (cuatro leguas en cuadro) were to be laid off as the termino y territorio, the limits and territory, of the town. Some controversy has arisen as to the true meaning of the words "cuatro leguas en cuadro"- whether they should be translated four square leagues, or four leagues square. White, in his Collection of the Laws, etc., has adopted the former rendering; on the other hand, it is contended by the counsel in this case that the latter is the more correct translation, and this idea is favored by the language of the order of Pedro de Nerva of March 22d, 1791 (Rockwell, p.451), prescribing the quantity of land to be assigned to new pueblos to be formed under the protection of the presidios, which declares that it shall consist of four common leagues, to be measured from the center of the presidio square namely, two leagues in every direction. This is supposed to mean two leagues in every direction from the center of the square, which, according to the ancient Spanish mode of surveying by forming a square upon the extremities of these lines, would give four leagues square, or a superficies of sixteen square leagues. But a comparison of this order with otherson the same subject satisfies us that the two leagues in every direction had reference to the whole extent of the line in both directions, and not its length from thecenter of the presidio square. The words "cuatro leguas en cuadro" are used in both senses; literally, they mean four leagues in a square; and so far as we have been able to gather their meaning as used in the law above referred to, from the interpretation put upon them in other orders and documents relating to the subject, we are of the opinion that the translation of Mr. White is correct, and that the quantity of land intended to be assigned to the new towns was four square leagues, and not four leagues square.

We have already had occasion to refer to the first settlement of California, and the establishment of the Missions and presidios as the sites of future towns and villages. The earlier orders and instructions for the government and regulation of the new settlements all have reference to this ulterior object. They authorize the Commandants of the Presidios to designate common lands, and to make grants to Indians and other settlers, meaning those of the white race, in conformity with the provisions of laws above referred t o with respect to new settlements and towns, and requiring the inhabitants to live in the towns and not dispersed. See instructions, etc. of Don Antonio Bucareli y Urusu, dated Mexico, August 7th, 1773,- Rockwell, pp. 144, 145.

The regulations of Don Felipe de Neve, approved by the King in October, 1781 (Rock.p. 445), prescribe rules for the organization and government of the new Pueblos, and the manner in which lots and lands (solares y suertes) shall be distributed among the inhabitants. It also provides for the designation of lands for the propios of the Pueblo, and recognizes the right of the inhabitants to the common privilege of water and pasturage, firewood and timber of the common forecst, and pasture lands to be designated according to law to each Pueblo. The decree of Don Pedro de Nerva, dated Chihuahua, March 22d, 1791, and the opinion of the Assessor or legal Adviser of that Comandancia to which it refers, are still more explicit on this subject. The first named document declares that: "the extent of four common leagues measured from the center of the Presidio square, namely, two leagues in every direction, to be sufficient for the new Pueblos to be formed under the protection of said Presidio;" and the

latter referring expressly to Law 6, Tit. 5, Lib. 4, of the Recopilacion, says that the boundaries assigned to each Pueblo for common lands must be four leagues in a square or oblong body. But the instruction made for the establishment of the new Town of Pitic, in the adjoining Province of Sonora, dated Chihuahua November 14, 1789, a certified copy of which is found in the archives, approved by the King, and ordered ti be adopted by the other new projected settlements, and those that may be established in the District of that Commandancia, is conclusive on this point.

This document gives minute and particular directions for the establishment and government of the new Pueblos, and declares the quantity of land to be assigned to them under the law above cited, as four leagues in a square or oblong form, out of which, after distributing to the settlers and vecinos the building and farming lots, solares and suertes, according to the provisions of the order, there were to be laid off certain portions as dehesas or pasture lands for the working oxen belonging to the town and land for the propios, the profits of which were to be applied to the support of the civil authorities and other municipal purposes - the residue to constitute the egidos or common lands for the use of the vecinos of the Pueblo generally. This document furnishes a complete illustration of the practice under the Spanish Government in the formation of new Towns, and is directly in point in the present case, inasmuch as the town of Pitic was at the time of its establishment the site of a Presidio, and like those in California, was under the civil jurisdiction of the Military Commandant, whose authority was superseded by the new municipal organization.

That the general provisions of the laws of the Indies upon which these several orders and instructions were founded, continued in force in Mexico after her separation from the mother country, except so far as modified by subsequent legislation or were inconsistent with the principles of the new Government, can scarcely admit of a doubt. Indeed, they are expressly referred to and recognized as such in the 13th Article of the Regulation of November 21st, 1828, and the Regulation adopted by the Territorial Deputation to provide the Towns and Cities with necessary funds for their expenses and public works, promulgated by Governor Figueroa on the 6th of August, 1834. The first Article of this Regulation requires the Ayuntamientos to proceed by the proper channels to solicit the assignment ~~of~~ to each Pueblo of lands for common and for propios (Terrneos para Ejidos y para propios).

Article second directs the manner in which the lands for propios shall be subdivided and a revenue raised from them, either by leasing or giving them en censo enfiteutico to the highest bidder. But if any doubt remained as to whether those laws were still recognized in Mexico, it would be entirely removed by a report to Manuel Jimeno, for many years Secretary of the Government of California, and one of the best informed of the public officers of the Department whose acts have come under our observation. This report is found in the Expediente filed in the claim of Martina Castro for the place named "Shoquel", numbered 593 on the docket of the Commission, and is as follows:

"MOST EXCELLENT GOVERNOR:- The title given to Dona Castro is drawn subject to the conditions that were inserted in many other titles during the time of General Figueroa, in which they subjected the parties to pay censos (tax) if the land proved to belong to the egidos of the Town.

I understand that the Town of Branciforte is to have for egidos of its population, four square leagues, in conformity to the existing law of the Recopilacion of the Indies, in volume the second, folios 88 to 149, in which it mentions that to the new Towns, that extent may be marked, to which effect it should

be convenient that your Excellency should commission two persons deserving your confidence, in order that, accompanied by the Judge of the Town the four square leagues, leaving to the deliberation of your Excellency to free some of the grantees of the conditions to which they are subject. The supreme judgment of your Excellency will resolve as it may deem it convenient.

MANUEL JIMENO.

Monterey, February 8th, 1844."

This document is important, not only as showing that the laws of the Recopilacion de Indies in relation to the formation of towns were considered in force in California, but also the construction of those laws by the authorities as to the quantity of land to be assigned to them as egidos. In another report of Jimeno, contained in the same Expediente, the same lands are referred to as consisting of cuatro sitios. This construction of the law fixes the quantity of land to which a town was entitled to use for propios and egidos at four square leagues, and not for leagues square, as contended for by the counsel in the case, and fully sustains the views we have expressed above.

The most material alteration made in the Ordinances de Poblaciones were effected by the decrees of the Spanish Cortes, already referred to in relation to the organizationof the municipal authorities of the towns; and that of the fourth of January, 1813, for reducing the vacant and other common lands to private property-which last will be considered in connection with another branch of the subject. But these changes did not effect the rights of the town or their inhabitants, to the use and occupation of the lands assigned to them for egidos and for propios, or the extent of the lands which might be so assigned, except that by the provisions of the last-mentioned decree, these lands might be alienated and reduced to private property, like other portions of the public domain, whereas prior to that time they were inalienable, except in the quantities and under the restrictions provided by the law and instructions on the subject, authorizing the concession of small parcels for building and farm lots. After being reduced to private property, the rights of the town of course would cease, except so far as the lands might be subject to taxation for the support of the municipal government.

If we are correct in our deductions from these authorities, there can be no doubt that at the time the organization of the Pueblo of San Francisco took place, newly established towns in California were entitled to have assigned to their use certain lands known as lands for egidos and propios.

Under the Spanish Government, the quantity of land assigned to a presidio in anticipation of its being erected into a pueblo at some future time, was limited, as we have shown above, to the quantity of four square leagues, but their is noting in the law which would restrict the new pueblo on its organization to that precise quantity; and it is presumed that the proper suthority might assign a greater or less quantity according to the necessities of the town, its population, contiguity to other pueblos, or other circumstances.

Applying them these principles to the facts of this case as disclosed in the testimony, we are satisfied that, at the time of the establishment of the Pueblo of San Francisco, such an assignment of lands was made to the new town, and their boundaries established by the Commandante of the Presidio, on whom the duty

of inaugurating the municipal authorities devolved. M. G. Vallejo who then filled the office of Commandante, testifies, that the marked out boundaries for the Pueblo of San Francisco, and sent an Expediente of the act down to the Government at Monterey; that subsequently he received from Governor Figueroa a communication notifying him of the approval by the Territorial Deputation of the plan presented by him, and reciting the boundaries as described in his note, and that within two weeks after the receipt of t that communication, he, in company with Francisco de Haro, Jose Sanchez, Francisco Cazares, Juan Miranda, and others, established the boundaries of the pueblo as described in said document.

Two copies of the communication from Figueroa, marked respectively Exhibits Nos. 4 and 18 to the deposition of Vallejo are filed in the case, and are proved by him to be true copies of the original, which he states was deposited by him in the archives of the new pueblo. Exhibit No. 18 purports to be certified as a true copy by Augustin Zamorano, then Secretary to the Territorial Government, and is translated as follows:

"Political Government of Upper California.

"General Comandancia of Upper California:- This Government, satisfied of the zeal and activity which characterizes you, as well as the patriotism which animates you, sees in your official note of the 24th of October, ultimo, a new proof of your desire for progress, and of your untiring efforts for the enlightenment and greatness of your ~~xxxxxxx~~ country and of your fellow citizens.

"In consideration of this, he takes pleasure in making known to you that, with the consent of the Most Excellent Territorial Deputation, it has adopted entire the Plan, which you have presented in your note referred to, with respect to the Pueblo of San Francisco, declaring its boundaries to be the same which you describe in said note: that is, commencing from the little cove (caleta) to the east of the Port, following the line drawn by you to the beach, leaving to the north the Casa Mata and Fortress; thence following a right line to the summit of El Devisadero; continuing said line towards the east to La Punta del Rincon, including the Canttales and El Gentil; said line will terminate in the Bay of the Mission Dolores, the estuary of which will form a natural boundary between the municipal jurisdiction of that Pueblo and of said Mission Dolores.

"This government, as proof of the confidence with which your services inspire it, has directed that you should be the person to have the honor of installing the first Ayuntamiento in that Pueblo of San Francisco, for which you have already done so much.

"In consequence, you will proceed, in the time and manner prescribed by law, to the election of the municipal authorities, in order that they may be installed the first day of January of the coming year, 1835, designating for town houses the buildings which you may deem most fit. God and Liberty.

"(Signed) JOSE FIGUEROA.

"Monterey, Nov. 4th, 1834.

"To the Military Comandante of San Francisco,
"Don Mariano G. Vallejo.

"A true copy: (Signed) ZAMORANO."

Much controversy has arisen, and much conflicting testimony taken in the case, as to the authenticity of this document as an official copy, and the genuineness of the signatures of Zamarona to the certificate which appears upon it. In the view which we have taken of the case, we do not consider the decision of this question material to the issue. The only questions presented for our decision under the law, are: First- The existence of the pueblo or town on the seventh of July, 1846. Second- Whether such town was possessed of lands, and if so, what were their extent and limits. And Third- The two first propositions being established affirmatively, whether the present City of San Francisco, is entitled to a decree of confirmation for such lands under the Act of the third of March, 1851? The establishment of the town, and its continued existence down to the period of the American occupation, is, as we have already shown, fully sustained. We have, also, shown by the laws in force at the time the pueblo was established, newly formed towns in Mexico were entitled to the use and occupation of certain lands contiguous thereto. It does not appear from those laws that any formal grant or title to those lands were ever made to a town; but they were simply laid off, and their boundaries fixed by the officer appointed for that purpose. This act was as necessary to the establishment of the new town as any other part of the proceedings for that purpose. It was necessary, in order to fix the municipal jurisdiction of the town authorities, and the limits within which the "vecinos" were entitled to the enjoyment of the rights of common conferred by law. It is true, that some evidence or official recognition of this act ought to be found in the archives of the pueblo, and we accordingly find, from the testimony of Vallejo, that the original of the communication from Governor Figueroa, recognizing and approving the boundaries as fixed by him was deposited there; that it cannot now be found is not a matter of surprise, in view of the fact that of the great mass of documents constituting the archives of the former Presidio and subsequent Pueblo of San Francisco, the few papers filed in this case are all that can now remain relating to the subject. The document in question is not presented as a title paper, but in corroboration of the testimony of Vallejo, showing that the lands are laid out and the boundaries established by him. General Vallejo was the military Comandante of the Presidio, exercising the functions of Civil Magistrate within its jurisdiction, and as such was the proper officer to carry out the decree of the Assembly for organizing the new Pueblo. It appears from the documentary evidence that he did so, and we learn from his deposition that among the acts performed by him was the assignment of lands and the establishment of the boundaries of the town; this document is filed to show that this, together with his other proceeding in the premises, were approved by the Governor. His evidence in this respect is strongly corroborated by the second deposition of Richardson, and that of Charles Brown, taken in the case, both of whom swear that the division line between the Mission and the Presidio or Pueblo of San Francisco, ran up Mission Creek to a high hill known as the "pevisadero," and thence in a straight line to the Pacific Ocean or Point Lobos. This line is almost identical with that established by Vallejo and described in Exhibit No. 18. Other witnesses refer to it when they speak of frequent disputes between the authorities of the Mission and those of the Presidio, in relation to the trespassing of the cattle north or south of it. It is further corroborated by the testimony of Ford and Rose, both of whom testify to a line described and pointed out to them by Guerrero and Hinckley, now deceased, who formerly held official positions in the pueblo. Their descriptions of this line approximate as nearly to that laid down in Exhibit No. 18 to the deposition of Vallejo, as could be expected from persons who were at the time but little acquainted with the topography of the surrounding country. The line referred to by Richardson and Brown, was doubtless the dividing line between the two establishments

Again, volume 5, page 226, he says: "There is nothing whatever designated by law as belonging to towns, other than that which by royal privilege, custom or contract between man and man, is granted to them, so that although there be assigned to the towns at the time of their constitution a territorio and pertinencias, which may be common to all the resifents, without each one having the right to use them separately, it is a perogative reserved to the princes to divide the terminos of the provinces and towns, assigning to these the use and enjoyment, but the dominion remaining in the Soverigns themselves."

The decree of the Spanish Cortes of the fourth of January, 1813, is, in itself, a recognition of this principle. The object and intent of the law was the distribution and reduction to private property of all the lands previously occupied and used by the towns, and it prescribed minutely the manner in which this shall be done, and treats them throughout the whole act as public or royal lands. If these lands had been the private property of the pueblos, the Cortes would have had no more right to decree their sale and distribution than they would have had to alienate or dipose of the private property of individuals. But it is evident, from the whole tenor of the decree that they were regarded as public lands, and subject to be disposed of at the pleasure of the soverign power. This law was probably never carried into effect in Spain; but there can be no doubt that, in common with o other decrees of the Cortes which were revived by the Spanish revolution of 1819, it was in full force in Mexico at the time her independence was established. These decrees have since been repeatedly recognized by Mexico as part of her covil code; and that of the fourth of January, 1813, unquestionably constituted the foundation for the power which was uniformly exercised by the Mexican authorities in California in the distribution and granting the common and other lands of the towns, in the same manner as other portions of the public domain, except that in the former ones the lands were granted subject to the canon or tax which might be imposed for municipal purposes. The method usually adopted when a petition for lands supposed to be included in the egidos (commons) of a town was presented to the Governor was, for that officer to enter an order referring it to the Ayuntamiento, who reported whether the lands belonged to the town, and if so, whether they might be granted without detriment to the corporation. If the report was favorable to the grant, it was made in the customary form of colonization grant with the condition above mentioned, and in some cases with the additional one of subjecting the lands granted to the enjoyment by the vecinos of the pueblo of the common right of wood, and pasturage. Among the numerous cases of this description which have been presented to the Commission, we refer particularly to the Expedientes in cases no 553, Jacob P. Leese, for "Panta de Pinos;" No 585 Rafael Estrada, for the "Rincon de las Salinas;" No. 595, Martina Castro, for "Shoquel," in which the grants were made by Governor Figueroa in 1833; No. 191, Charles Walters, for "El Toro," grant made by Governor Castro in 1835; No. 456, Antonio Igo. Acila, for "Sausal Redondo," grant by Governor Alvarado in 1837; ~~All of these are grants of land supposed to be within the Micheltorena in 1843.~~ and No.427, Thomas Sanchez, for "La Cienega," grant by Governor Micheltorena in 1848. All of these are grants of land supposed to be within the egidos or common lands, of the respective towns near which they were situated. These grants were made at different times, extending through a period of ten years, and by nearly all the persons who filled the office of Governor during that time, and no question seemed to have been raised as to the authority of the Governor to grant them

as portions of the public domain; but being situate within the corporate limits of towns, they were made liable to be taxed for municipal purposes. By Article 77 of the Organic Law of the twentieth of March, 1837, the distribution of the common lands of the towns was committed to the Prefects of the respective districts. The powers of those officers over the subject was considered byh the Board, in their opinion in the case of Manuel Larios, No. 279 for lands near San Juan Bautista, in which their authority to grant those lands as belonging to the government was fully recognized.

The proceedings of the Territorial Government in relation to the distribution of lots in the Pueblo of San Francisco are in entire conformity with this view of the question. The first application of which we find any record, for a grant of a house lot or farm lot (suerte) in the new Pueblo was that of Jose Joaquin Estudillo, referred to in the former part of this opnion where the action of the Governor and Territorial Deputation on hhe subject is fully set out. From these proceedings it is clear that the lands were regarded as the property of the nation, and as such subject to the disposition to the territorial authorities according to the law regulating the subject, and this, two, notwithstanding the fact they are expressly recognized as belonging to the jurisdiction of the Ayuntamiento of San Francisco. The deputation accordingly reported in favor of the expediency of making the grant limiting the quantity to that specified in the fifteenth article of the regulation ofNovember 21st, 1828. This reference to the regulation shows that the deputation considered that they were acting upon its authority, from which alone they derived their power to dispose of the public lands, and, as a necessary consequence, that they regarded the lands referred to as comprehended in that description. To avoid, however, the numerous applications which they supposed would be made for building lots in the new Pueblo, they passed a resolution authorizing the Ayuntamiento to make such grants within certain limits specified in the resolution. The order of Governor Castro of the 26th of October, 1835, communicating this resolution of the deputation to the Ayuntamiento and directing future applications for such grants to be made to t that body, has already been quoted, and was unquestionably the authority under which all subsequent grants of lots of one hundred varas square were made by that body, or the Justices or Alcalde who succeeded it in the government of the Pueblo.

A careful examination of the authorities on this point, in connection with the uniform practice under Spanish and Mexican Governments, as shown in the numerous orders, decrees, and regulations, and the acts of the public functionaries in relation to the subject establish clearly, in our opinion, the following propositions:

1st. That under the laws of Spain and Mexico no right of property in lands assigned to Pueblos or Towns was ever vested in those corporations by which they could alienate or dispose of them in any manner; but such assignment only conferred a right to use and occupy them in the manner prescribed bythe laws under the direction of thesuperior authorities.

2nd. That the right to alienate or dispose of such lands whenever exercised by the municipal authorities, was by virtue of powers specially delegated to them for that purpose by the King or Nation, in the same manner as the authority to dispose of other portions of the public domain was conferred on other functionaries specially charged with the subject.

In view of these conclusions, the question is presented whether an assignment of municipal lands to Towns under the lawsopf

Mexico conferred on those corporations such a right or title to the premises so assigned, as would under the general provisions of the Act of the 3d of March, 1851, entitle them to confirmation of the same, independent of the presumption created in their favor by the fourteenth Section of that Act. So far as the action of this commission is concerned, we do not think it necessary to decide this point. In the former part of this opinion we have examined the true meaning and intent of the fourteenth section of the above law referred to, and from that examination we entertain no doubt that it was the intention of Congress, where a Town was proven to be in existence on the 7th of July, 1846, that a grant should be presumed for all the lands at that time held and occupied by such Town or its lawful authorities. That in accordance with that presumption, the lands should be confirmed to the corporate authorities of the Town, which confirmation should inure to the benefit of the lot holders under grants from the Town, and should operate as a release of the rights of the United States to the remainder of the land in favor of the corporation for the commonmon use and benefit of all the inhabitants without prejudice to the rights of third parties. From our examination of the evidence in this case and the laws applicable to the subject, as shown in the preceding part of this opinion, we are brought to the following conclusions:

1st. That a pueblo or town was established under the authority of the Mexican Government in California, on the site of the present City of San Francisco, and embracing the greater portion of the present corporate limits of said City.

2d. That the town so established continued and was in existence as a municipal corporation on the 7th day of July, 1846.

3d. That at or about the time of its establishment, certain lands were assigned and laid off in accordance with the laws, usages, and customs of the Mexican nation, for the use of the Town and its inhabitants, and the boundaries of said lands determined and fixed by the proper officers appointed for that purpose by the Territorial Government.

4th. That the boundaries so established are those described in the communication from Governor Figueroa to M.G.Vallejo dated November 4, 1834, a copy of which is filed in the case, marked Ex. No. 18, to the deposition of said Vallejo.

These conclusions bring the case, in our opinion, clearly within the operation of the presumption raised in favor of a grant to the Town by the 14th Section of the Act of the 3d of March, 1851, and entitle the petitioner to a confirmation of the land contained within the boundaries described in the document above mentioned.

R. AUG. THOMPSON,
S. B. FARWELL,
Commissioners.

No. LXXXlll.

UNITED STATES LAND COMMISSION FOR CALIFORNIA.
Claim for four leagues Pueblo Lands.

Dissenting Opinion of Commissioner Alpheus Felch.

THE CITY OF SAN FRANCISCO
versus
THE UNITED STATES.
No. 280.

I fully concur with my associates in the Commission in the opinion that the City of San Francisco is entitled to a decree of confirmation in this case, but in my judgment the premises which should be confirmed, comprose only the land which, plotted into lots, streets and squares, was embraced within the city limits under its act of incorporation passed in 1850. The decree which is entered in the case covers a much larger tract. It is bounded on the North and on the East by the waters of the Bay of San Francisco, on the West by the Pacific Ocean, and on the South by a line drawn from the Bay to the Ocean. This last mentioned line is designated the Vallejo line. The City of San Francisco is situated on and extends along the East side of the area embraced within these limits, while the tract outside of the city boundaries and lying between it and the ocean constitutes much the larger portion of the area. The Presidio, to which reference is often made in the case, is within the area but without the city limits, and at a considerable distance from the city lines. The ancient Mission of San Francisco de Asis or Dolores is not within the area described in the decree of confirmation.

We all agree that the authority to adjudicate in this case is foundin the fourteenth section of the Act of March 3d, 1851 The chief clause in that section upon which the decree of confirmation must rest, is that which declares that the previous provisions shall not apply to any city, town or village lot, which city, town or village existed on the seventh day of July, 1846, but the claim for the same shall be presented by the corporate authorities of said town, and the existence of such city, town or village on the day above mentioned shall be prima facie evidence of a grant to such corporation. But to what lands does this right to a confirmation extend? Within what limits or boundaries is the City under this enactment entitled to a patent for the land.

The decree is based upon the proposition that the lands confirmed were assigned to the use of the town under Mexican authority in 1834, with clearly defined limits, such as are described in the decree. The result of the investigation of the proof in the case, as stated in the opinion if the majority of the Commission, is as follows;

FIRST.? That a Pueblo or Town was established on the site of the present City of San Francisco under the Mexican authities.

SECOND.- That the Town so established continued and was in existence as a municipal corporation on the seventh of July, 1846.

THIRD.- That about the time of its establishement the lands confirmed were duly assigned and laid off in accordance with the laws, usages and customs of the Mexican nation, for the use of the Town and its inhabitants, and the boundaries determined and fixed by the proper officers appointed for that purpose by the Territorial Government.

FOURTH.- That these boundaries are the same which are described in document marked Exhibit No.18, Gen. Vallejo's deposition, having the Vallejo line for its limits on the South.

If in my judgment these several propositions were established by the proof, I should find no necessity to object to the decree entered in the case, but in my opinion, the testimony fails to establish the propositions.

The establishment of the ~~Presidio~~ Pueblo is based on the action of the Territorial Deputation had at their session of the third November, 1834. At that time the ultimate power of establishing Pueblos or Towns as municipal organizations was with the Supreme Government. The Territorial Deputation was to take

the initiative; their recommendation and action was to be transmitted through the Political Chief of the Supreme Government for the disposition of the latter. It is not alleged that any action of the Supreme power was had in the case under consideration, but the proceedings of the Territorial Deputation are claimed to have had the effect of creating such organization. I shall not stop to inquire whether without the approbation of the Supreme Government, any action of that body could have that effect, but conceding that it could, these proceedings were not such as in my opinion to prove the establishment of an organized Pueblo, within the limits defined in the decree of confirmation.

The proof of the establishment of the Pueblo consists chiefly, if not exclusively, of the record of the proceedings of the Territorial Deputation on the third November, 1834; the dispatch of Governor Figueroa of the next day, designated as Exhibit No.1, annexed to the deposition of M.G.Vallejo, and the document marked Exhibit No.16, known as the Zamorano document. All these are recited in the opinion of the majority of the Commission filed in the case.

From the examination of these documents I am of the opinion that the organization, which took place at the Presidio in the fall of 1834, under the action of the Territorial Deputation of November 3d, was a temporary organization for the government of the entire northern portion of the Territory, and not the establishment of a municipal organization of a Town within the limits described in the decree of confirmation. I do not esteem it necessary here to go into a protracted argument on this subject but the following, among other considerations tending to corroborate this view, may be stated.

FIRST.- The record of the proceedings of the Territorial Deputation, which is the basis of the organization whatever was its character, does not establish or directnthe establishment of a Pueblo or Town, but simply directs that the Partido (district) of San Francisco proceed to the election of a constitutional Ayuntamiento to be established in the Presidio of that name, etc.

SECOND.- Tha Ayuntamiento so to be established, was by the order of the Governor Figueroa, transmitting a copy of these proceedings, with direction to proceed to the election of the proper officers, directly stated to be not the exercise of merely municipal jurisdiction, but of political functions; and that not merely within the area now claimed to have been embraced in the Presidio, but over the whole northern portion of California where Gen. Vallejo, the comandante of the Presidio, had previously exercised his authority.

THIRD.- The testimony of the witnesses shows that in fact the Ayuntamiento did exercise its authority, not merely over this limited space, but over a tract of country extending many miles South of the present city of San Francisco, and embracing a large tract of country on the opposite side of the Bay and almost an indefinite extent to the north of it.

It is argued that the existence of an Ayuntamiento necessarily implies the municipal organization of a town over which it presides. In the original use of the word in ancient Spain, it is probably true that Ayuntamientos existed only in such Pueblos or Towns. But the Constitution of 1812 was the commencement of important changes in the internal economy of Spain and her provinces and under this and the subsequent laws of 1812 and 1813, and more especially under the Mexican law of 1830, the character of these organizations in Mexico was greatly modified. However it might have been before, the powers and jurisdiction of an Ayuntamiento might certainly under these embrace larger extents of country, and

include within their limits many parishes and Pueblos. Their defined duties and powers were such as pertained, at least many of them, to the supervision of rural districts as well as to towns or cities. We know, morover, that the northern portions of California, with its sparse population, was generally governed by officers or tribunals whose duties and powers were anomalous in their character, or enlarged to meet the exigencies of the country. Thus, down to the time of the organization of the Ayuntamiento Gen. Vallejo, the military commandant of the Presidio exercised full civil authority over the immense region of country. And thus Gen. Sutter, at a subsequent period, acted as judge of the entire Sacramento District with powers understood to be ample, but which were both extraordinary and undefined. We should not be surprised therefore, if it should appear that this new organization, made to provide for an emergency, should be found to impose on the newly established tribunal a different or more enlarged jurisdiction than usually appertained to tribunals elsewhere bearing the same name.

FOURTH.- The evidence shows, that at the time the Ayuntamiento was established, there was no considerable settlement or Town within the limits specified to require a municipal organization, and with the exception of the military forces stationed at the Presidio, there were very few inhabitants established there. The first house was not built at Yerba Buena until after this period. Nor is it shown that any effort was made subsequently to build up a Town, having for its center the Plaza of the Presidio with its streets radiating therefrom in the usual manner of constructing Spanish or Mexican Towns.

FIFTH.- But it is claimed, that notwithstanding the Ayuntamiento was, in the proceedings by which it was established, ordered to be elected by the Partido, (District) and its jurisdiction was, by the dispatch of the Political Chief, declared to be political and to extend over this extensive district of country, it still had a special municipal jurisdiction confined to the small extent of country embraced within the decree, and limited on the south by the Vallejo line, this small area constituting a Pueblo. This proposition rests chiefly, if not entirely, on the document marked Exhibit No. 18, above mentioned, and the testimony of M.G. Vallejo. The importance of this part of the proofs in its bearing on the case, makes it necessary to refer to it more at length. The document is copied in extenso in the opinion of the majority of the Commission filed in the case. This document purports to be an official copy of the original by Zamorano, who was Secretary of the Government. The original is not presented. Vallejo testifies that he received from Governor Figueroa in 1834 a document designating the boundaries of the Pueblo of San Francisco, and that he deposited it in the Pueblo Archives; he also swears that the copy here presented has been in his possession (with the interval of a short time) ever since near the time of its date, November 4th, 1834. As an official copy, it derives its force for the purposes of evidence from the authenticity and genuineness of the signature of Zamorano, the certifying officer. Gen. Vallejo, who was acquainted with Zamorano's handwriting, attests to its genuineness; but the witness, Alvarado, Hartnell, Richardson and Castro, who also well knew it, are fully of opinion that the signature was not made by him. Vallejo does not claim to have seen Zamorano sign his name to the certificate; like the other witnesses, he judges it to be genuine only from his knowledge of his handwriting. Every other witness who is questioned on the subject believes it not to be Zamorano's signature. The weight of evidence is decidedly against the genuineness of it, and I am compelled therefore to regard the document as not entitled to credit as a certified copy.

But it is claimed that, whether this certificate of Zamorona's be genuine or a forgery, the testimony of Gen. Vallejo proves that he received an original communication, and that this is a true copy thereof. If such a document was received by the witness as is lost, so that its production cannot be obtained, recourse should be had to the archives where it is presumed a copy may be procured. The proof of this as a copy is most unsatisfactory in its character. On the first examination of the witness a paper similar in its contents to Exhibit No.18 was exhibited by the claimant's counsel to him, and he was asked whether to the best of his knowledge and belief it was a true copy of the original received by him, and he replied that according to his best recollection it was a copy.

This method of making proof of the contents of a lost document by presenting a paper already prepared by the parties taking the testimony, and requiring his simple affirmative answer to the question whether it is a copy, is sustained by no authority of law, and if it had been objected to by the counsel for the Government, would for this reason be rejected.

The memory of the witness should have been taxed for his recollection of its contents, and they should have been stated by him instead of being prepared and presented for his simple yes or no by an interested party; no objection, however, was made.

The witness produced, on a subsequent examination, the document marked Exhibit No. 18, and testified that he believed it to be a true copy of the original received by him, and which he delivered to the Alcalde of the Pueblo. When this paper, known as the Zamorano document, was obtained by the witness originally or by whom it was prepared, or for what purpose it was placed in his hands, does not appear. It is scarcely probable that he procured it while the original was still in his possession. He states that the original was delivered up by him to the Alcalde with the other Archives of the Pueblo, and as his connection with it ceased immediately after the organization of the Ayuntamiento we may reasonably conclude that this must have been early in 1835. He does not state that he ever compared this alleged copy with the original, or that he examined or read it while the recollection of the original was fresh in his mind, and that he now was able to remember that he then recognized it as a copy. He regarded this as an authentic copy under the genuine signature of Zamorano, the Secretary.

The testimony, in my opinion, shows that it is not so, and if any of his impressions of the contents of the original were derived from an examination of this document under the belief that it was genuine, they were derived from a source not legitimate and calculated to mislead. The rule of law is well settled, that a witness testifying to the contents of a lost document, must state the fact from his recollection of what the original contained. Memoranda made by him contemporaneously with his examination of the original may be used with propriety to refresh his memory; but even then, after examining them he must testify only from his recollection of the original. In this case neither one of these alleged copies was made by the witness, neither compared by him with the original, neither obtained from a source entitling to any special authenticity or authority. The evidence that they are copies of the paper received by him from Figueroa rests entirely on the memory of General Vallejo of the contents of the original; more than eighteen years must have elapsed after it left his hands before his testimony was given, a length of time sufficient to tax the most retentive memory as to the contents of a paper and to invite the most careful scrutiny into its correctness.

We shall here test the accuracy of this testimony by first stating what is the purport of this document, if it be a true copy of an original sent to Gen. Vallejo; and secondly, by inquiring whether, in the light of the other testimony in the case, such a document could have been transmitted by the Governor for the purpose indicated. The dispatch is presented as evidence of two facts; first, that the organization of the Ayuntamiento was the establishment of a municipal corporation or Pueblo; and secondly, that the lines designated therein and previously recommended by Gen. Vallejo were adopted by the Deputation as the boundary linessof the Pueblo. Gov. Figueroa had not the power to establish a Pueblo, or to fix the powers thereof, or to make an assignment of land for its public uses. His decree to that effect would be of no authority. The Deputation alone had the power to take the initiative on this subject. The document does not declare that the Political Chief thus decrees, but merely certifies on this subject that the Deputation had adopted the plan recommended by Vallejo, and had fixed the boundaries of the Pueblo as described therein, making the Vallejo line the southern limit. If this line was thus established, it was by action of the Deputation, and the communication of Figueroa was valuable only as evidence of the action of that body. If the original, signed by Figueroa was produced, it might be prima facie proof that such proceedings were had; but as it is lost the party must proceed with the proof of the facts as the rules of law require. The rule is that the best evidence of which the nature of the case admits shall be adduced. Here the nature of the case points out at once better evidence than the recollection of the witness as to the facts alleged to have been stated in the document. A copy of the communication of the Governor from the Archives, if it could be found there, might be produced; if not found, the records of the Territorial Deputation, which must constitute the best evidence of these proceedings if they were to be had, should be produced by the claimant. But there is evidence given in the case upon the part of the Government which will enable us more certainly to solve the question whether the Territorial Deputation did in fact take action establishing lines indicated as and for the boundaries of a Pueblo. The recorded journal of the proceedings of the Deputation, during the session when this action is alleged to have been had, is given in evidence, and shows no such action of by that body. Jose Castro swears that he was the presiding officer of the Deputation during the session of 1834, and on examining Exhibit No.18 says, that no such plan as this was ever presented to the Deputation nor acted upon by that body. The witness, Governor Alvarado, who was a member of the same Deputation, knows nothing of the establishing of such boundaries. At the Surveyor-General's office an examination has been made for a record or memorandum of such a dispatch from Figueroa, but nothing of the kind is found; a copy of the letter from the Governor to Gen. Vallejo, dated May 36th 1834, is there, but none of a later date in that year appears. Francisco Sanchez, who was Secretary of the Ayuntamiento for nearly three years and as such in connection with the Alcalde had charge of the archives in which Vallejo testifies the original communication received from Figueroa was deposited, swears that he saw among them no papers defining or assigning such boundaries.

As to the existence of such a line and the knowledge of it by the inhabitants, one witness, Julius K. Rose, swears that Guerrero, the Alcalde, pointed out to him this line in 1850, as the line of the Pueblo; and another, Ford, states that in 1844 a line nearly identical with it was described to him by Alcalde Hinckley as marking such limits. Another witness, Pickett, testifies, that in 1846 Guerrero concurred with the other old inhabitants in declaring that there was no Pueblo in existence here; and another, Davis, says that Hinckley, he thinks, with others, designated very different boundaries. These heresay statements, coming

from two witnesses who are not shown to have had any special knowledge on the subject even, if not weakened by their own contradictory statements, would not avail to establish such a line. The general scope of the evidence in the case is not such as to indicate that any such line was known or recognized among those most likely to be cognizant of it. If it was officially established as a demarcation of such boundary, that general notoriety which would seem to be an unavoidable necessity, if such a demarcation was made for so public a purpose, is not shown to have existed. It has been truly said, that independent of anything contained in this document, General Vallejo swears that he marked out and established the Vallejo line as one of the boundaries of the Pueblo, and that he sent an expediente thereof to Monterey. This marking of the line was before the alleged action of the deputation by which it was said to be established. But the act of General Vallejo could not establish a Pueblo or mark its boundaries, or assign to it lands within any limits or for any purpose. This must depend upon the action of the Territorial Deputation for even the initiative. Whatever may have been his action or the design of his acts, without the sanction of the Deputation no rights could devolve upon the municipal authorities or others by virtue of them.

It is not the question whether Vallejo ran and established a line which he designated as the limits of a future Town/ or whether he recommended the establishment of a municipal organization within the limits of his demarcation. All this might be, and yet without proof of the official action to thesame effect of the public authorities, the Deputation taking the initiative notTown could be alleged to have been established. It will not escape observation that the document No. 18 is dated on the same day as that marked No. 1. Both are addressed to the same person: both relate to the establishment of an Ayuntamiento by the Territorial Deputation, to be organized at San Francisco, and if both be genuine, were undoubtedly transmitted together. The first is admitted to be genuine and the proceedings of the Deputation, recited in it, are found in the records of that body. If the action of the Deputation which is stated in the latter actually took place it must have been at the session which was being held at the time of its date. This action is so different in its character from that referred to in the first document and found in the recorded proceedings, that it cannot be the same. Were two resolutions passed by the Deputation at the same time? Were two Ayuntamientos to be established by General Vallejo, one with a jurisdiction broad as the limits of the partido, and the other confined to the small limits indicated by the Vallejo line and the waters of the bay and ocean? Or was a smaller jurisdiction carved out of the larger, with special powers or rights limited to the boundaries of the latter, though presided over by the same Ayuntamiento? Did Governor Figueroa send two such documents, of the same date to General Vallejo? It would require direct and unequivocal evidence to convince my mind against the record of the Deputation and the other evidence in the case, that such was the fact. In my opinion, these considerations, and the fact that no such boundaries were subsequently recognized for any particular purpose, to which I shall again refer in this opinion, brings my mind irresistibly to the conclusion that the Territorial Deputation passed no resolutions establishing the Vallejo line or organizing a municipality limited by it on the south; that their only action on the subject is that found in the resolutions of November 3d, 1834, a copy of which was transmitted in Exhibit No.1 and that the document marked 18 cannot be considered as establishing the contrary. There are many circumstances in the case which tend to show how themind of the witness may have been led to the

belief that the Zamorano document was a true copy of an original received by him. We need impute no improper motive or attempt to misrepresent on his part, in coming to the conclusion that these proofs to the contrary far outweighthe ~~xxxx~~ testimony, which is based on the mere recollection of the most respectable witness as to the contents of a document which he has not seen for eighteen years. "My experience has taught me," said Lord Tenterden, "the extreme danger of relying upon the recollection of witnesses, however, honest, as to the contents of written instruments; they may be so easily mistaken that I think the purposes of justice require the strict enforcement of the rule."

SIXTH.- The boundaries desribed are represented in the document No. 18 as the boundaries of the Pueblo, and both by the description therein given and by the testimony of Vallejo, they are represented as the jurisdictional limits of the authorities thereof. The witness declares that the jurisdiction of the Ayuntamiento extended only to these limits. But it seems to me that the accumulated evidence in the case shows beyond controversy that these lines were not the limits of the authority of the Ayuntamiento The history of the organization and proceedings of that body shows that it could not have been so. The voters of the first election according to the testimony of Sanchez, came from Contra Costa, Sonoma, San Rafael, and other places, embraced in a large extent of country, and extending far outside these limits. In May, 1835 the inhabitants of the ranchos on theeast side of San Francisco Bay, applied to the Governor to be set off to the jurisdiction ofSan Jose representing that they were compelled, in order to go to San Francisco, to expose themselves to danger in crossing the bay, or to travel some forty leagues by land in order to avoid it; that they were liable to be called to exercise the judicial functions or to serve as members of the Ayuntamiento at the latter place when they must take up their residence there for a year. The application was signed by some residents of Contra Costa. The petition was referred to the deputation, and reports were made by the Ayuntamientos of San Jose and San Francisco. The latter resisted the application, and no final action appears to have been taken on the subject. Persons living outside of these limits not only voted at the several primary elections, but also served as electors, and were elected and officiated as officers, constituting the Ayuntamiento. There was no time during its existnce that some of its members were not residents of the Mission, which was south of the line to have limited the jurisdiction. By the Constitution of 1812, the Spanish decrees made under it, and the Mexican law of July 12, 1830, which are referred to in express terms in the decree of the deputation directing the election of the Ayuntamiento, residents within the Pueblo alone were entitled to vote at such elections or to hold any of these offices. In 1838 the Ayuntamiento ceased to hold its sessions within the limits of the jurisdictional lines, and was established at Mission Dolores. If, while it continued within the limits, the municipal elections were held and offices filled by persons living without them, the more singular fact was subsequently presented of a municipal government organized without its jurisdictional limits and governing it like a foreign territory. This could not be so under the Mexican law, and whatever jurisdiction that might be, it was surely commensurate in its territorial extent with that wide district within which both its electors and elected resided. Nor is there evidence to show that there was any difference in the character of the jurisdiction of the Ayuntamiento depending on the alleged lines of demarcation, or that it was more perfect or extensive on the north side of the Vallejo line than on thesouth. Nor when other officers succeeded to the Ayuntamiento was any such distinction recognized. Nor in the granting of lots for settlement by the local authorities under the sanction of the Governor, does any distinction appear to have obtained between the land on the north

and the south side of said line, the same Justices make concessions indiscriminately on both sides.

But if these lines were established as the jurisdictional lines of a Pueblo admitted to exist within their limits, it would not in my judgment entitle the City to a confirmation of the land as defined by them. No authority of Spanish or Mexican law concedes to a Town or Pueblo all the land within its jurisdiction. It was contemplated under the old Spanish regime, that each should possess certain rights in the lands where they were located, but these lands were confined to four square leagues, in a specified form andlocation. Where no special assignment was made and this was procured, other defined and established limits were placed to the premises which they might enjoy. But the lines described in the decree entered in this case are not those defined by lae as the four square leagues and as jurisdictional lines merely they could give no right to the Town to the enjoyment of the lands within them, and should not be adopted in a decree of confirmation,

SEVENTH.- But it has been claimed, and such seems to be the opinion of my associates, that the lines described by Vallejo were not merely the limits of a juridcition, but that they designated lands for the use of the municipality, and that the premises within them were thus assigned to the Pueblo for its public uses. There certainly is no evidence in the papers, or in the testimony tending to show that any assignment of common lands was made by Vallejo or any one else. This is not the character which that witness gives to the act of marking the lines of which he speaks. If any doubt on this subject could exist, it must be put at rest by reference to the official action of the Territorial Government which is proved in the case, on the subject of assigning such lands to the several Towns in California had subsequent to these proceedings. At the opening of the session of the Departmental Assembly on the sixteenth day of February, 1840, the following explicit language is used in the message of the Governor to that body on the condition of the department, while speaking in reference to the towns therein: "None of said Towns, with the exception of Monterey has its commons and landed property (ejidos y propios) marked out which to each of the municipalities should be fixed in order to know its legal property (fundo legal), for which reason the Government in making concessions of land in the vicinity thereof, granted the same temporarily, waiting for such a regulation, and regarding the same subjects proper reports have been repeatedly asked. Your Honorable Board, however, in view of all this, exercising the power conferred upon you in part 1 of the Article 45 of the above mentioned law, (that of March 30, 1837) and in concert with the Government, will arrange what may be deemed proper." Here is an explicit and official statement that in 1840 none of the Pueblos or Towns of California, excepting the Capital City had had any lands assigned to them for their public uses. Six years before, a plan had been promulgated by Governor Figueroa in which the municipal authorities were enjoined to proceed and obtain such assignment, but evidence is scattered every where throughout the records of the department which shows that up to the time of the conquest no such assignment was in fact made to any of the Towns. That the locality of the present city of San Francisco formed no exception to this statement, is also directly established in my opinion by the proofs in the case. The lands within the alleged limits continued to be treated as other portions of the national domain. The Governor continued to make grants within its boundaries down almost to the raising of the American flag, in larger parcels as well as in small lots. It is true, the local authorities made small grants, or rather gave possession of small lots to individuals in the vicinity of the Mission and also at Yerba Buena, but the authority under which they were made and the conditions attached to them are such as to indicate not a claim

of ownership, or a right of use, or disposition in any Town or corporation, but the land was still unembarrassed by any such assignment or concession. We have before us the evidence of the authority under which the local authority disposed of lots. We have also evidence of specific grants issued by the Ayuntamiento during its existence, and a certified copy from the Recorder's Office of a book purporting to be a record of all the grants issued for such lots after that body ceased to exist in 1838. Two grants only are proved to be made by the Ayuntamiento; one for Jacob P. Leese and the other to Wm. A. Richardson, and both of these are proved by the testimony of said Leese to have been granted by an express decree of the Governor, whose order to that effect was brought by him to the Ayuntamiento. The record of subsequent grants above mentioned shows only two concessions of lots in 1839. In 1840, seven--three declared to be under the decree of the Governor, and the others by the Justices of the Peace. In 1841, two grants were made by the Justice, one of which recites that the grantee had the Governor's decree for a fifty-vara lot and the Justice concedes another lot adjoining it. In 1842 two entries only are made, one of which is stated to be under a grant from the Prefect, the other under the superior decree of the Governor. In 1843 seven grants were made; in 1844 thirteen, and in 1846 seventeen. Two of these are by Governor Pico, the others in the usual form of Justices' grants. Most of these grants are of lots in Yerba Buena, but some are at the Mission Dolores.

A dispatch from San Jose Castro, acting Governor, is presented, certifying that the Territorial Deputation in session of twenty-second of September, 1835, approved that the Ayuntamiento grant lots (solares) not exceeding one hundred varas, in the place named Yerba Buena, "paying to the Ayuntamiento the fees (canon) which may be designated to him as pertaining to the propios," etc. In the book of record above mentioned is found authority under which the grants were made after the establishment of the office of Prefect and Justices of the Peace under the law of March 20, 1837 It is there shown that after his installation, the Prefect received a note from the Departmental Government wherein the Government concedes that building lots in the Establishment of Dolores may be granted to severals. Information of this order appears to have been received by Francisco Guerrero, the Justice at that place as early as the first of June, 1839, and on that day the draught of a form for putting individuals in possession of lots was prepared by him, entered of record and forwarded to the Prefect. The written decree of the Government authorizing it, seems not to have been in possession of Guerrero at that time, and the record shows that he subsequently applied for and obtained a copy of it; and in making a concession under it on the eighteenth of November, 1840 a new form was adopted by the Justice, making express reference to this authority of the Departmental Government under which the grants were made. The first subjected the grantee to all police regulations which might be established. The second contained the additional condition that the grantee should "be subject to pay such tax as he may be liable to according to the edict on the subject in case it may be so determined by the Government--the same having been already consulted." All the grants made by the Justices, with perhaps a single exception were made in the manner above specified and under the express condition that they should thereafter be subject to the proper tax if the lands should subsequently be assigned for municipal uses. The authority of to the Ayuntamiento and that to the Justices of the peace, certainly imply that the lands had not at their respective dates been dedicated or assigned to the particular use of any community or corporation and it does not purport to make such an assignment. It purports nothing more than to authorize the local officers for certain purposes and on specified conditions to grant small lots on behalf and in the name of the Government, not to concede owner-

ship or even usufruct to any officer or community. It was a power which might at any moment have been reversed, and whether existing or revoked, the ownership and power of disposing of this land as of other portions of the national domains, was with the Government. These documents, which are the source of the authority under which all the grants (so far as the testimony in this case exhibits them) which have ever been made in this locality by the local officers, all explicitly show that they were made subject to a tax (canon) for the municipal authorities if in future such authorities should be here established and the land be assigned by the Government for common lands or propios, andshowing clearly that no such disposition of them had as yet been made. It is perhaps scarcely necessary to add more on this subject. But if it were admitted that the Ayuntamiento constituted the municipal government of a Pueblo here established and nothing more, and even that the lands north of the Vallejo line were assigned for the use of the municipality in 1834, it would still admit of great doubt, to use no stronger term, whether all rights to it had not ceased long before the conquest and cession of the country to the United States. The law of August 20, 1837, changed materially the internal organization, both political and municipal, of the department. This law abolished all the Ayuntamientos throughout the country, except in the Capital of the department, ports witha population of 4,000 inhabitants, Towns with 8,000 inhabitants and those which had Ayuntamiento which was organized at the Presidio in the beginning of 1835, and which subsequently held its sessions at the Mission, ceased to exist, andno other was ever established under Mexican authority in its place. Prefects, Sub Prefects and Justices of the Peace were appointed under this law in the districts, the ancient Spanish official, the Alcalde, being elected only where the law retained the Ayuntamiento. In towns containing 1000 inhabitants or more, the Justices of the Peace subject to the supervision of their superior, succeeded to the faculties and obligations of the Ayuntamientos which were abolished, except that as to the management of municipal funds--they were subject to the direction of the departmental Junta. But this locality, including as well the Mission and Yerba Buena as all the land on the north side of the Vallejo line, had not that number of inhabitants. The law purposely provided for no successor where Ayuntamientos had existed in Towns with so few inhabitants--virtually abolished the municipal organization, and placed them under the ordinary authorities of the District and Partido where they were situated. Weheras, as in this case, no Town de facto existed, and the municipal authorities were abolished by law, it would seem that lands assigned previously for their use andheld by them by no other tenure would again fall within the full control of the nation. And after the interval of some eight years from the time of the abolishing of the municipal authority under this law and the conquest of the country without municipal successors it is difficult to see how the ownership of this land could be elsewhere at the time of that conquest than in the Mexican nation. I have thus adverted to some of the considerations growing out of the proofs in the case, which bring my mind to a conclusion different from the opinion of my associates. Such a difference never occurs without the most profound regret on my part, and a sincere distrust off the correctness of my own judgment.

I do not attempt to discuss the subject in its whole extent, but I deem it my duty to advert to some of the reasons upon which my own opinion is founded. As a resuly of the examination, I am of the opinion that no right or title to the property embraced within the limits of the Vallejo line on the

south and the waters of the ocean and bay on the other sides, is proved to have existed in any municipal authority, or to have been segregated, assessed, or dedicated for any public purpose to which the present city succeeds under Mexican law, at the time of the conquest. There is nothing in the case, therefore, to entitle the claimants to the specific portion of land embraced within these limits. The City is, nevertheless, entitled to the presumption of a grant in her favor under the fourteenth section of the Act of March 3, 1851.

In its character this section was intended to be highly beneficial to the cities, towns, and villages of California, and must be understood as having reference to the particular class of claims for which it provides, and to the state of things in reference to its beneficiaries which existed at the time it was passed. Lessee of Pollard's Heirs v. Kibbe, 14 Pet.R. 353. It is well known that towns in California which were of little consequence while the Mexican rule continued, had, under American domination after the conquest, greatly increased in importance, and that San Francisco especially had become a large and populous commercial city; it had received a charter from the Legislature of the newly organized State of California in 1850, and its limits were well defined by law, and the area within its boundaries was laid out and represented on maps and plans as divided lots with convenient streets and lines. Such was its condition when the law of March 3d, 1851, was passed, and it was, in my opinion, the object of the statute, in view of the condition of things at the time of its date, to confirm to the city authorities all the lots within its boundaries. Proof is given of the existence of a small town known as Yerba Buena, on the site of the present city, on the seventh of July, 1846; this was requisite under the law to entitle the present corporation to a presumption of a grant, but this being proved, the presumption extends to the lots as they existed at the time of the passage of the Act, and was not confined to the limits of the original Mexican town. It was the American city as it existed in 1851, which Congress had in its eye, and not the little germ from which it sprung, when it provided for making its corporation the depository of the titles to these lands, and this design of quieting the titles by the presumption of a grant to the city would fail to be secured, and the manifest object of the law be defeated, if all the lots within its chartered limits at the time the Act was passed were not embraced in the decree of confirmation. Beyond these limits the petitioners have established no rights. The decree, therefore, should, in my judgment, be entered in favor of the city for the lots within the corporation limits as described and established in the charter of 1851, and no more.

ALPHEUS FELCH.

DECREE OF CONFIRMATION BY THE UNITED STATES LAND COMMISSIONERS

IN THE PUEBLO CASE.

(December 21, 1854.)

No. 280.

THE CITY OF SAN FRANCISCO)
)
— vs —)
)
THE UNITED STATES.)

In this case, on hearing the proofs and allegations, it is adjudged by the Commission that the claim of the Petitioner is valid, and it is therefore decreed that the same be confirmed.

The land of which confirmation is made is that known by the name of the Pueblo Lands of San Francisco, and is bounded as follows: Beginning at the little cove to the East of the Fort, and running across to the beach so as to leave the Fort and Casamata to the North; thence running along the beach to Point Lobos, on its Southern part; thence, a straight line to the summit of the Devisadero ——————— continuing said line to the East as far as the "Punta del Rincon", including the "Cañutales", and "El Gentil", the said line will terminate within the Bay of the Mission of Dolores, the estuary of which will form a natural boundary between the municipal jurisdiction of the Pueblo and the said Mission of Dolores. Thence along the shore of the Bay of San Francisco, as it existed in the year 1834, to the point of beginning. For a more particular description, reference to be had to the copy of the Order from Governor Jose Figueroa to General Mariano G. Vallejo, dated Monterey, November 4, 1834, marked "Exhibit No 18 to the Deposition of M.G. Vallejo, taken in No. 280, H.I.T.", and now on file among the papers in the case.

Signed. ALPHEUS FELCH
R. AUG. THOMPSON
S. B. FARWELL
Commissioners.

A true and correct copy of the original on file in this office; which I attest.

GEO. FISHER.
Secretary of U.S. Land
Commission in California.

San Francisco, December 21, 1854.

(See Vol. V. No. 204 San Francisco Daily Herald, Friday Dec. 22, 1854 p. 2 Col I)

NOTICE OF APPEAL OF THE UNITED STATES. June 2, 1856.

No. 427.

U.S. Dist. Court,
The United States
vs.
City of San Francisco.

Appeal Notice.
Filed June 2, 1856
Chevers
Deputy.

Office of the Attorney-General of the United States.
Washington, 15 April, 1856.
280) "Pueblo Lands"
City of San Francisco, Claimant.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 29th day of March, 1856, the appeal in the District Court of the United States for the Northern District of California will be prosecuted by the United States.

(Signed) C. Cushing
Attorney General.

John A. Monroe Esq.
Clerk U.S. D.C.
U.S. Circuit Court
Nor. Dist Cala.
City of San Francisco
v
The United States.

Notice of motion and affidavit.
Filed this 15th Nov. 1864
(Signed) Geo. C. Gorham, Clerk.
Dr. W. F. Henstis Deputy.
(Signed) John B. Williams
Special counsel U.S.

ORDER DISMISSING APPEAL OF THE UNITED STATES.

United States District Court, Northern District of California.
The United States
vs.
City of San Francisco.

At a stated term of the District Court of the United States of America, for the Northern District of California, held at the Court Room, in the City of San Francisco, on Monday the thirtieth day of March in the year of our Lord one thousand eight hundred and fifty-seven.
Present:
The Honorable Ogden Hoffman, District Judge.

The United States,	)	
v.	)	D.C. 427.
Mayor & Common Council	)	L.C. 280.
City of San Francisco.	)	

The Attorney-General of the United States having given notice that appeal will not be prosecuted in this case, and a stipulation to that effect having veen entered into by the U.S. Attorney.

On motion of the District Attorney it is ordered adjudged and decreed that the appeal taken by the United States from the decision of the U.S. Land Commission in this case be dismissed and that claimants have leave to proceed under the decree of said Commission heretofore rendered in their favor, as under Final Decree.

(Signed) Ogden Hoffman,
U.S. Dist. Judge.

AN ACT CONCERNING THE CITY OF SAN FRANCISCO, AND TO RATIFY AND CONFIRM CERTAIN ORDINANCES OF THE COMMON COUNCIL OF SAID CITY.

(Approved March II, 1853.)

Section I. WHEREAS, the common council of the City of San Francisco passed an ordinance, approved by the Mayor on the twentieth day of June, A.D. one thousand eight hundred and fifty-five, which ordinance is in the words and figures following, to-wit:

Number eight hundred and twenty-two—Ordinance for the settlement and quieting of the land titles in the City of San Francisco.

THE PEOPLE OF THE CITY OF SAN FRANCISCO DO ORDAIN AS FOLLOWS:

Section I. It shall be the duty of the Mayor to enter at the proper land office of the United States, at the minimum price, all the lands above the natural high-water mark of the Bay of San Francisco, at the time of the admission of California into the Union as a state, situated within the corporate limits of the City of San Francisco, as defined in the act to incorporate said City passes April fifteenth, one thousand eight hundred and fifty-one, in trust for the several use, benefit, and behoof, of the occupants or possessors thereof, according to their respective interests.

Section 2. The City of San Francisco hereby relinquishes and grants all the rights and claim of the City to the lands within the corporate limits, to the parties in the actual possession thereof, by themselves or tenants, on or before the first day of January A.D. one thousand eight hundred and fifty-five, and to their heirs and assigns forever; excepting the property known as the slip property, and bounded on the north by Clay Street, on the West by Davis Street, on the south by Sacramento Street, and on the east by the water-lot front. And excepting, also any piece or parcel of land situated south, east or north of the water-lot front of the City of San Francisco, as established by an act of the Legislature of March twenty-sixth, A.D. one thousand eight hundred and fifty-one; PROVIDED, such possession has been continued up to the time of the introduction of this ordinance in the common council; or, if interrupted by an intruder, or trespasser, has been, or may be, recovered by legal process; and it is hereby declared to be the true intent and meaning of this ordinance, that when any of the said lands have been occupied and possessed under and by virtue of a lease or demise, they shall be deemed to have been in the possession of the landlord or lessor under whom they were so occupied or possessed; PROVIDED, that all persons who hold titles to lands within said limits by virtue of any grant made by any ayuntamiento, town council, alcalde, or justice of the peace of the former pueblo of San Francisco, before the seventh day of July one thousand eight hundred and forty-six; or grants to lots of land lying east of Larkin Street and north-east of Johnston Street, made by any ayuntamiento, town council, or alcalde, of said pueblo, since that date, and before the incorporation of the City of San Francisco, by the State of California; and which grant, or the material portion thereof, was registered, or recorded in a proper book of record deposited in the office, or custody, or control of the recorder of the county of San Francisco, on or before the third day of April, A.D. one thousand eight hundred and fifty; or by virtue of any conveyance duly made by the commissioners of the funded debt of the City of San Francisco, and recorded on or before the first day of January, one thousand eight hundred and fifty-five, shall, for all the purposes contemplated by this Ordinance, be deemed to be the possessors of the land so granted, although the said lands may be in the actual occupancy of persons holding the same adverse to the said grantees.

Section 3. The patent issued or any grant made by the United States to the city, shall inure to the several use , benefit and behoof, of the said possessors, their heirs and assigns, mentioned in the preceding section, as fully and effectually, to all intents and purposes, as if it were issued or made directly to them individually and by name.

Section 4. The City, however, as a consideration annexed to the

next two preceding sections, reserves to itself all the lots which it now occupies, or has already set apart for public squares, streets, and sites for school houses, city-hall and other buildings belonging to the corporation; and also such lots and lands as may be selected and reserved for streets and other purposes, under the provisions of the next succeeding sections.

Section 5. The City shall have the right to proceed to lay out and open streets, as soon as the corporation may deem it expedient, in that part of the City west of Larkin Street and south-west of Johnston Street, and reserves the right to take possession of such lands as it may deem necessary to occupy for that purpose, without compensation; and to assess, in the manner provided by the present or any existing Charter of the City, upon the lands bounded on such streets, the whole expense of laying out, grading and constructing the same; and payment of the costs of said improvements shall be deemed a charge upon the lands mentioned in this section, to which the City of San Francisco relinquishes her right and title by the second and third sections of this ordinance.

Section 6. The City shall also have the right to select and set apart, from the lands west of Larkin street and south-west of Johnston street, as many lots, not exceeding one hundred and thirty-seven and a half feet square each, as the Mayor and common council may, by ordinance, determine to be necessary for sites for school-houses, hospitals, fire-engine-houses, and other public establishments necessary and proper for the use of the corporation; and may lay out and reserve upon the said lands, at convenient and suitable points and distances, public squares, which shall not embrace more than one block, corresponding in size to the adjoining blocks; provided, that the selection shall be made within six months from the time of the passage of this ordinance; and that the City shall not, without due compensation, occupy, for the purposes mentioned in this section, after the laying out the streets aforesaid, more than one-twentieth part of the land in the possession of any one person ; and that such possessor shall voluntarily assent thereto; or, refusing to do so, shall not be entitled to the benefit of any concession contained in the second and third sections of this ordinance.

Section 7. The lots and lands reserved for the use of the corporation, under the provisions of the next preceding section, shall be selected in localities likely to be most convenient and suitable for their respective uses, and in such proportion to the quantity in the possession of the respective occupants as to make the apportionment as nearly equal as circumstances will admit.

Section 8. The selection of said lands and lots shall be made by a commission, to consist of three persons, who shall be chosen by the common council, in joint convention, who shall report the same to the common council for its approval; and, upon such approval, deeds of release to the corporation for the lands thus selected shall be executed, acknowledged, and recorded, in which deeds shall be specified the uses for which they are granted, reserved, and set apart, respectively.

Section 9. Although the City hereby renounces in favor of the actual possessors, in accordance with the provisions of Section second, any right, or claim of its own, nothing in this ordinance is intended to prejudice any other outstanding title to the said lands adverse to the said possessors.

Section IO. Application shall be made to the Legislature to confirm and ratify this ordinance, and to Congress to relinquish all the right and title of the United States to the said lands, for the uses and purposes hereinbefore specified.

[illegible]

[illegible]

[illegible]

Section II. Nothing contained in this Ordinance shall be construed to prevent the City from continuing to prosecute, to a final determination, her claim now pending before the United States Land Commission, for pueblo lands, for the several use, benefit and behoof of the said possessors mentioned in section two, as to the lands by them so possessed, and for the proper use, benefit and behoof, of the corporation as to all other lands not hereinbefore released and confirmed to the said possessors.

Section 12. That all ordinances or parts of ordinances, conflicting with this ordinance, or any of its provisions, be and the same are hereby repealed. (Approved, June twentieth, one thousand eight hundred and fifty-five. S.P. WEBB, Mayor.)

AND WHEREAS, the said common council passed another ordinance, approved by the Mayor of said City, September twenty-seventh, A.D. one thousand eight hundred and fifty-five, which last mentioned ordinance is in words and figures following, to-wit:

Number eight hundred and forty-five--Ordinance providing for selecting and designating public squares and reservations for hospitals, fire-engines, and school purposes, and for adopting the plan of streets in the western and south-western portion of the city, according to the provisions of Ordinance number eight hundred and twenty-two and confirmatory of said ordinance number eight hundred and twenty-two.

THE PEOPLE OF THE CITY AND COUNTY OF SAN FRANCISCO DO ORDAIN AS FOLLOWS:

Section 1. Under and by virtue of the provisions of the ordinance of the common council number eight hundred and twenty-two, entitled "An ordinance for the settlement and quieting of land titles in the City of San Francisco, approved June twentieth, one thousand eight hundred and fifty-five," the board of aldermen and board of assistant aldermen shall meet in joint convention, at their next regular meeting after the passage of this ordinance, and proceed to elect three commissioners, who shall have the powers and proceed to discharge the duties specified in section eight of said ordinance number eight hundred and twenty-two.

Section 2. It shall be the duty of the City Surveyor, acting in conjunction with the said commissioners, and with their concurrence, to furnish, by way of recommendation to the common council, within one month from the date of their appointment, a plan for the location and dimensions of the streets to be laid out within the city limits, west of Larkin, and south-west of Johnston streets, upon which plan shall also be designated the lots and grounds selected by the said commissioners for the use of the city under the provisions of the aforesaid ordinance number eight hundred and twenty-two; PROVIDED, that the compensation of said commissioners shall not exceed the sum of one hundred dollars each, payable when the common council may legally make an appropriation therefor.

Section 3. The said ordinance number eight hundred and twenty-two, referred to in the preceding section one, is hereby re-ordained, ratified, and confirmed in all its parts.
(Approved September twenty-seventh, one thousand eight hundred and fifty-five. JAMES VAN NESS, MAYOR.)

AND WHEREAS, in pursuance of the aforesaid ordinances, commissioners were appointed by the common council, who in conjunction with the city surveyor of said city, agreed upon and reported, for the approval of the common council a plan for the location of streets, public squares, and lots for public uses, to be laid out west of Larkin street and south-west of Johnston streets, in said city, accompanied by a map of the same, which said plan and map was, by the justices of the peace, exercising the powers of a board of Supervisors of the City and County of San Francisco, adopted, approved and ratified by an order bearing date the sixteenth day of October, A.D. one thousand eight hundred and fifty-six, which is in the words and figures following, to-wit:

THE BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO
DO ORDAIN AS FOLLOWS:

Section 1. That the plan or map of the Western Addition, reported by the commission created under an ordinance of the last common council of the City of San Francisco, be adopted by this board, and be declared to be the plan of the City, in respect to the location and establishment of streets and avenues, and the reservation of squares and lots, for public purposes in that portion of the then incorporated limits of said city, lying west of Larkin and south-west of Johnston streets.

BE IT THEREFORE ENACTED, that the within and before recited order and ordinances be, and the same are hereby, ratified and confirmed; and all the land entered, or to be entered, in the United States Land Office, in pursuance of section one of the first recited of said ordinances, in trust, shall pass and inure to, and be deemed to have immediately vested in the occupants thereof, for their several use and benefit, according to their respective interests, in execution of the trust designated in an act of Congress, entitled an act for the relief of citizens of towns upon the public lands of the United States, under certain circumstances, approved May twenty-third, one thousand eight hundred and forty-four, as extended and applied by an Act of Congress, entitled as act to provide for the survey of the public lands in California, the granting of pre-emption tighta therein, and for other purposes, approved March third, one thousand eight hundred and fifty-three; and it shall be the duty of all coirts and officers to take judicial notice of the said order and ordinances as hereinbefore recited, without further proof, as fully and effectually, to all intents and purposes, as if they were public acts of the State Legislature.

Section 2. That the grant or relinquishment of title made by the said City in favor of the several possessors, by sections two and three of the ordinance first above recited, shall take effect as fully and completely, for the purpose of transferring the city's interest, and for all other purposes whatsoever, as if deeds of release and quit-claim had been duly executed and delivered to and in favor of them individually and by name; and no further conveyance or other act shall be necessary to invest the said possessors with all the interesr, title, rights, benefits and advantages,which the said order and ordinances intend or purport to transfer or convey, accroding to the true intentand meaning thereof; PROVIDED, that nothing in this act shall be so construed as to release the city of San Francisco, or city and county of San Francisco, from the payment of any claim or claims due or to become due this state against said city, or city and county,nor to effect or release to said city and county any title this state has or may have to any lands in said city and county of San Francisco.

AN ACT TO EXPEDITE THE SETTLEMENT OF TITLES TO LANDS IN THE STATE OF CALIFORNIA.
July 1, 1864.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That whenever the surveyor-general of California shall, in compliance with the thirteenth section of an act entitled "An act to ascertain and settle the private land claims in the State of California," approved March third, eighteen hundred and fifty-one, have caused any private land claim to be surveyed and a plat to be made thereof, he shall give notice that the same has been done by a publication, once a week for four consecutive weeks, in two newspapers, one published in the City of San Francisco, and one published near the land surveyed; and shall retain in his office, for public inspection, the survey and plat until ninety days from the date of the first publication in San Francisco shall have expired; and if no objections are made to said survey, he shall approve the same, and transmit a copy of the survey and plat thereof to the commissioner of the general land-office at Washington, for his examination and approval; but if no objections are made to said survey within the said ninety days, by any party claiming to have an interest in the tract embraced by the survey, or on any part thereof, such objections shall be reduced to writing, stating distinctly the interest of the objector, and signed by him or his attorney, anf filed with the surveyor-general together with such affidavits or other proofs as he may produce in support of the objactions. At the expiration of said ninety days the surveyor-general shall transmit to the commissioner of the general land-office at Washington a copy of the survey andplat,and objections, and proofe filed with him in support of the objections, and also of any proofs produced by the claimant and filed with him in support of the survey, together with his opinion thereon; and if the survey and plat are approved by the said commissioner he shall indorse thereon a certificate of his approval. If disapproved by him, or if, in his opinion the ends of justice would be subserved thereby, he may require a further report from the surveyor-general of California, touching the matters indicated by him, or proofs to be taken thereon, or he may direct a new survey and plat to be made. Whenever the objections are disposed of, or the survey and plat are corrected, or a new survey and plat are made in conformity with his directions, he shall indorse upon the survey and plat adopted a certificate of his approval. After a survey and plat have been made, as hereinbefore provided, approved by the commissioner of the general- land-office, it shall be the duty of the said commissioner to cause a patent to issue to the claimant as soon as practicable after such approval.

Sec. 2. AND BE IT FURTHER ENACTED, That the provisions of the preceding section shall apply to all surveys and plats by the surveyor-general of California heretofore made, which have not already been approved by one of the district courts of the United States for California, or by the commissioner of the general land-office: PROVIDED, that where proceedings for the correction or confirmation of a survey are pending on the passage of this act in one of the said district courts, it shall be lawful for such district court to proceed and complete its examination and determination of the matter, and its decree thereon shall be subject to appeal to the Circuit Court of the United States for the district in like manner and in like effect as hereafter provided for appeals in other cases to the circuit court; and such appeals may be in like manner disposed of by said circuit court.

Sec. 3 AND BE IT FURTHER ENACTED, That where a plat and survey have already been approved or corrected by one of the district courts of the United States for California, and an appeal form the decree of approval or correction has been taken to the Supreme Court of the United States, the said Supreme Court shall have jurisdiction to hear and determine the appeal. But where from such decree of approval or correction no appeal has been taken to the Supreme Court, no appeal to the court shall be allowed, but an appeal may be taken, within twelve months after this act shall take effect, to the

Circuit Court of the United States for California, and said Circuit Court shall proceed to fully determine the matter. The said Circuit Court shall have power to affirm or reverse or modify the action of the District Court, or order the case back to the surveyor-general for a new survey. When the case is ordered back for a new survey, the subsequent survey of the surveyor-general shall be under the supervision of the commissioner of the general land-office and not of the District or Circuit Court of the United States.

Sec. 4. AND BE IT FURTHER ENACTED, That whereever the district judge of any one of the district courts of the United States for California is interested in any land, the claim to which, under the said act of March third, eighteen hundred and fifty-one, is pending before him, on appeal from the board of commissioners created by said act, the said district court shall order the case to be transferred to the Circuit Court of the United States for California, which court shall thereupon take jurisdiction and determine the same. The said district courts may also order a transfer to the circuit court of any other cases arising under said act, pending before them, affecting the title to lands within the corporate limits of any city or town, and in duch cases both the district and circuit judges may sit.

Sec. 5. AND BE IT FURTHER ENACTED, That all the right and title of the United States to the lands within the corporate limits of San Francisco, as defined in the act incorporating said city, passed by the legislature of the State of California, on the fifteenth of April, one thousand eight hundred and fifty-one, are hereby relinquished and granted to the said city and its successors, for the uses and purposes specified in the ordinances of said city, ratified by an act of the legislature of the said State, approved on the eleventh of March, eighteen hundred and fifty-eight, entitled "An act concerning the City of San Francisco, and to ratify and confirm certain ordinances of the common council of said city," there being excepted from this relinquishment and grant all sites or other parcels of lands which have been, or now are, occupied by the United States for military, naval, or other public uses, or such other sites or parcels as may hereafter be designated by the President of the United States within one year after the rendition to the general land-office, by the surveyor-general, of an approved plat of the exterior limits of San Francisco, as recognized in this section in connection with the lines of public surveys; AND PROVIDED, That the relinquishment and grant by this act shall in no manner interfere with or prejudice any bona fide claims of others, whether asserted adversely under rights derived from Spain, Mexico, or the laws of the United States, nor preclude a judicial examination and adjustment thereof.

Sec. 6. AND BE IT FURTHER ENACTED, That it shall be the duty of the surveyor-general of California to cause all the private lands claims finally confirmed to be accurately surveyed and plats thereof to be made, whenever requested by the claimants: PROVIDED, That each claimant requesting a survey and plat shall first deposit in the district court of the district within which the land is situated a sufficient sum of money to pay the expenses of such survey and plat, and of the publication required by the first section of this act. Whenever the survey and plat requested shall have been completed and forwarded to the commissioner of the general land-office, as required by this act, the district court may direct the application of the money deposited, or so much thereof as may be necessary, to the payment of the expenses of said survey and publication.

Sec. 7. AND BE IT FURTHER ENACTED, That it shall be the duty of the surveyor-general of California, in making surveys of the private land claims finally confirmed, to follow the decree of confirmation as closely as practicable whenever such decree designates the specific boundaries of the claim. But when such decree designates only the out-boundaries within which the quantity confirmed is to be taken, the location of such quantity shall be made, as near as practicable, in one tract and in a compact form. And if the character of the land, or intervening grants, be such as to render the location impracticable in one tract, then each separate location shall be made, as near

as practicable, in a compact form. And it shall be the duty of the commissioner of the general land-office to require a substantial compliance with the directions of this section before approving any survey and plat forwarded to him.

Sec.8.AND BE IT FURTHER ENACTED, That the act entitled "An Act to amend an act entitled'An Act to define and regulate the jurisdiction of the district courts of the United States in California, in regard to the survey and location of confirmed private land claims,'" approved June fourteenth, eighteen hundred and sixty, and all provisions of law inconsistent with this act, are hereby repealed.

APPROVED, July 1, 1864.

ORDER TRANSFERRING CASE OF SAN FRANCISCO vs. UNITED STATES TO DISTRICT COURT.

At a stated term of the District Court of the United States of America, for the Northern District of California, held at the Court Room in the City of San Francisco, on Monday the fifth day of September in the year of our Lord one thousand eight hundred and sixty-four.

Present:
The Honorable Ogden Hoffman, District Judge,

THE UNITED STATES	)	
v.	)	No. 427.
CITY OF SAN FRANCISCO.	)	

It appearing to the Court that by an Act of the Congress of the United States, approved July 1st, 1864, the above-entitled cause, now pending under the Act of March 3, 1851, may be transferred to the Circuit Court of the United States for California, ordered, that said cause be and hereby is transferred to said Circuit Court.

(Signed) OGDEN HOFFMAN,
Dist. Judge.

No. 427.
United States District Court,
Northern District of California.

The United States
v
City of San Francisco.

Order transferring cause to Circuit Court.

(63½)

Filed Sept. 5, 1864.
(Signed) W. H. Chevers, Clerk.
Filed Sept. 27th 1864
Geo. C. Gorham, Clk.
pr. W. G. Henstis, D.C.

THE PUEBLO CASE.

CITY OF SAN FRANCISCO	)	CIRCUIT COURT, NORTHERN DISTRICT OF CALIFORNIA.
-vs-	)	
	)	OCTOBER 31, 1864.
UNITED STATES.	)	(4 Sawyer p. 559)

OPINION OF MR. JUSTICE FIELD.

This case comes before this Court upon a transfer from the District Court under the Act of Congress of July 1, 1864, "to expedite the settlement of titles to lands in the State of California." It was in the District Court on appeal from the decree of the Board of Land Commissioners, created by the act of March 3, 1851. It involves the consideration of the validity of the claim asserted by the City of San Francisco, to a tract of land situated in the City and County of San Francisco, and embracing so much of the peninsula, upon which the city is located, as will contain an area of four square leagues,

The city presented her petition to the board of land commissioners in July, 1852, asserting in substance, among other things, that in pursuance of the laws, usages and customs of the government of Mexico, and the act of the departmental assembly of California, of November, 1833, the pueblo of San Francisco was created a municipal government, and became invested with all the rights properties and privileges of pueblos under the then existing laws, and with the proprietorship of the tract of land of four square leagues above described; that the pueblo continued such municipality and proprietor until after the accession of the government of the United States, July 7, 1846, and until the passage of the act of the Legislature, of the State of California incorporating the city; and that she thereupon succeeded to the property of the pueblo, and has a good and lawful claim to the same.

In December, 1854, the board of commissioners confirmed the claim of the city to a portion of the four square leagues and rejected the claim for the residue. The land to which the claim was confirmed, was bounded by a line running near the Mission Dolores, and known as the Vallejo line. That line was adopted principally in reliance upon the genuineness and authenticity of the document described in the proceedings as the Zanorano document. The spuriousness of that document is now admitted by all parties. From the decree of the Board an appeal was taken by the filing of a transcript of the proceedings and decision with the clerk of the District Court. The appeal was by statute for the benefit of the party against whom the decision was rendered, in this case of both parties, of the United States, which controverted the entire claim, and of the City, which asserted a claim to a larger quantity of land; and both parties gave notice of their intention to prosecute the appeal. Afterward, in February, 1857, the attorney general withdrew the appeal on the part of the United States, and in March following, upon the stipulation of the district attorney, the District Court ordered that appeal to be dismissed, and gave leave to the City to proceed upon the decree of the commission as upon a final decree. The case therefore remained in the District Court upon the appeal of the city alone, and that is its position here. But the proceeding in the District Court, being in the nature of an original suit, the prosecution of the appeal by either party keeps the whole issue open. "The suit in the District Court", said Mr. Justice Nelson in United States v. Ritchie (17 How. 534), "is to be regarded as an original proceeding, the removal of the transcript, papers, and evidence into it from the board of commissioners, being but a mode of providing for the institution of the suit in that Court. The transfer, it is true, is called an appeal; we must not, however, be misled by a name, but look to the substance and intent of the proceeding

The District Court is not confined to a mere re-examination of the case, as heard and decided by the board of commissioners, but hears the case de novo, upon the papers and testimony which had been used before the board, they being made evidence in the District Court; and also upon such further evidence as either party may see fit to produce."

But though the whole issue is open, the dismissal of the appeal on the part of the United States may very properly be regarded as an assent by the government to the main facts upon which the claim of the city rests, namely: The existence of an organized pueblo at the site of the present city upon the acquisition of the country by the United States on the seventh of July, 1846; the possession by that pueblo of proprietary rights in certain lands, and the succession to such proprietary rights by the city of San Francisco. The district attorney does not, therefore, deem it within the line of his duty to controvert these positions, but on the contrary admits them as facts in the case, contending only that the lands appertaining to the pueblo were subject, until by grant from the proper authorities they were vested in provate proprietorship, to appropriation to public uses by the former government and, since the acquisition of the country, by the United States. He therefore insists upon an exception from the confirmation to the city, of land heretofore reserved or occupied by the government for public uses; and I do not understand that the counsel of the city objects to an exception of this character.

It is unnecessary, therefore, to recite the historical evidence of the existence of a pueblo previous to, and at the date of, the acquisition of the country at the present site of the city of San Francisco, which is very fully presented in the elaborate opinion filed by the commission on the rendition of its decision. Since that decision was made, the question has been considered by the Supreme Court of the State; and in an opinion in which the whole subject is examined a similar conclusion is reached; and if anything were wanting in addition to the arguments thus furnished, it is found in the able and exhaustive brief of the counsel of the City. The documents of undoubted authenticity, to which the opinions and the brief of counsel refer, establish beyond controversy the fact that a pueblo of some kind, having an ayuntamiento composed of alcaldes, regidores, and other municipal officers existed as early as 1834; and that the pueblo continued in existence until and subsequent to the cession of the country.

The action of the officers of the United States in the government of the city and the appointment or election of its magistrates after the conquest both preceding and subsequent to the treaty of peace, proceeded upon the recognition of this fact; and the titled to property within the limits of the present city to the value of many millions rest upon a like recognition.

The material question, therefore, for determination, as the case stands before this court, relates to the extent of the lands in which the pueblo was interested. It is not pretended that such lands were ever marked off and surveyed by competent authority. It is admitted, as already stated, that the so-called Zamorano document given in evidence is spurious. The question presented must therefore be determined by reference to the laws of Mexico at the date of the conquest.

As stated by the commissioners in their opinion, there can be no doubt that by those laws, pueblos or towns, and their residents were entitled to the use and enjoyment of certain lands within prescribed limits immediately contiguous to and adjoining the town proper; that this right was common to the cities and towns of Spain from their first organization, and was incorporated by her colonies into their municipal system on this continent; and that the same continued in Mexico, with but little variation, after her separation from the mother country. And there is as little doubt that by those laws a pueblo or town when once established and officially recognized, became entitled, for its own use and the use of its inhabitants, to four square leagues of land. The compilation known as the Recopilacion de Leyes de las Indies contains several laws relating to this subject. The sixth law of title five, of book four, provides for the establishment of towns by contract with individuals, and upon compliance with the conditions of the contract, for the grant of four square leagues of land, to be laid off in a square of prolonged form, according to the character of the country.

The opinion of the assessor or legal adviser of the Vice Royalty of New Spain given to the Commandate General in October, 1785, upon the pttition of certain settlers in California, for grants or tracts of land situated within the limits claimed by pueblos, recognizes this right of pueblos to have four square leagues assigned to them. His language is that the grants "cannot and ought not to be made to them within the boundaries assigned to each pueblo, which in conformity with the law six, title five, liber four of the Recopolacion, must be four leagues of land in a square or oblong body according to the nature of the ground; because the petition of the new settlers would tend to make them private owners of the forests, pastures, timber, water, wood and other advantages of the lands which may be assigned, granted, and distributed to them, and to deprive their neighbors of these benefits. It is seen at once that their claim is entirely contrary to the directions of the forementioned laws, and the express provision in Article 8 of the Instructions for Settlements (Poblaciones) in the Californias, according to which all the waters, pastures, wood and timber, within the limits which in conformity to law may be allowed to each pueblo, must be for the common advantage -- so that all the new settlers may enjoy and partake of them, maintaining thereon their cattle, and participating of the other benefits that may be produced."

But the royal instructions of November, 1789, for the establishment of the town of Pitic, in the province of Sonora, is conclusive as to the right of pueblos in California under the laws of Spain. These instructions were made applicable to all new towns that should be subsequently established within the general comandancia, which included the province of California. They gave minute directions for the formation and government of the new pueblos, and referring to the laws of the Indies already cited, declared that there should be granted to the towns four leagues of land in a square of prolonged form. They also provided for the distribution of building and farming lots to settlers, the laying out of pasture lands and lands for the propios, the residue to constitute the egidos or commons for the use of the inhabitants.

The general provision of the law of the Indies, to which these instructions and the opinion of the assessor refer, continued in force in Mexico after her separation from Spain. They were recognized in the regulations of November, 1828, which were adopted to carry into effect the colonization law of 1824, and in the regulation of the departmental assembly of August, 1834, providing funds for towns and cities. They were referred to in numerous documents in the archives of the former government in the custody of the surveyor-general. The report of Jimeno, for many years secretary of the government of California, found in the expediente of Dona Castro made in February,1844, is cited by the commissioners in their opinion as removing all doubt on this point. The report is as follows:

"Most Excellent Governor: The title given to Dona Castro is drawn, subject to the conditions that were inserted in many other titles during the time of General Figueroa, in which they subjected the parties to pay censas (taxes) if the land proved to belong to the egidos of the town.

"I understand that the town of Branciforte is to have for egidos of its population four square leagues, in conformity to the existing law of the Recopilacion of the Indies, in volume the second, folios 88 to 149, in which it mentions that to the new town that extent may be marked, to which effect it would be convenient that your Excellency should commission two persons deserving your confidence, in order that, accompanied by the judge of the town, the measurement indicated may be made, and it may be declared for egidos, of the town the four square leagues, leaving to the deliberation of your Excellency to free some of the grantees of the conditions to which they are subject. The supreme judgment of your Excellency will resolve as it may deem convenient.

"MANUEL JIMENO.

Monterey, February,8, 1844."

The documents to which reference has been made are sufficient to establish

the position that pueblos once formed and officially recognized as such became by operation of the general laws entitled to have four square leagues of land assigned to them for their use and the use of their inhabitants. It does not appear that formal grants were made to the new pueblos, though in some instances an officer was appointed to mark off the boundaries of the four square leagues, and to designate the uses to which particular tracts should be applied. But the right of the pueblos and their inhabitants to the use and enjoyment of the lands was not made dependent upon such measurement and designation.

It follows from these views that the pueblo, which is admitted to have been regularly established at the site of San Francisco on the seventh of July, 1846, was, as such pueblo, vested with the right of four square leagues of land, to be measured either in a square or in a prolonged form, according to the nature of the country excepting from such tract such portions as had been previously dedicated to or reserved for public uses or had become private property by grant from lawful authority.

It is difficult to determine with precision the exact character of the right or the title held by pueblos to the lands assigned to them. The government undoubtedly retained a right to control their use and disposition; and to appropriate them to public uses until they had been vested in private proprietorship. Numerous laws have been cited to show that the title remained absolutely in the government. The same laws were cited to the Supreme Court of this State when the subject was before that tribunal, and in relation to them the Court said: "We see nothing in these laws opposed to the views we have already expressed, that the towns had such a right, title and interest in these lands as to enable them to use and dispose of them in the manner authorized by law or by special orders, and consonant with the object of the endowment and trust. Undoubtedly the right of control remained in the sovereign, who might authorize or forbid any municipal or other officer to grant or dispose of such lands, even for the purpose of the endowment or trust. Such general right, with respect to a public corporation exists in any sovereign State, and must, of course, have existed in the absolute monarchy of Spain, where the property of private corporations and individuals was to a great degree subject to the royal will and pleasure." (Hart v. Burnett, 15 Cal. 569.) And referring to objections to the theory of absolute title in the pueblo, and the questions which upon that view might be suggested, the court said: "There is but one sensible answer to these questions, and we think that answer is given in the laws themselves, and in the recorded proceedings of the officers who administered them, and who must be presumed to have interpreted them correctly. It is that the lands assigned to pueblos, whether by general law regulating their limits to four square leagues, or by special designation of boundaries, were not given to them in absolute property, with full right of disposition and alienation, but to be held by them in trust for the benefit of the entire community, with such powers of use, disposition and alienation as had been already or might afterward be conferred for the due execution of such trusts, upon such pueblos, or upon such officers." (Id. 573.) And this view, the court adds, fully reconciles the apparently conflicting disposition of the laws and the commentaries of publicists respecting the relative rights of the Crown and the municipalities to which counsel had referred.

In this view of the nature of the title of the pueblo and of the City, its successor, I fully concur; and I am of the opinion that under the provisions of the act of March 3, 1851, the city is entitled to a confirmation of her claim. I regret that the recent transfer of the case to the Circuit Court, and the great pressure of other engagements since, have prevented me from considering at greater length the interesting questions presented. To those who desire to extend their inquiries, the elaborate opinions to which I have made frequent reference, and the able brief of counsel will furnish ample materials.

the documents to which reference has been made are sufficient to establish

the position that prevails here [illegible] and difficulty [illegible] in such
[illegible] by operation of the general laws enacted to have [illegible] square
of land [illegible] to [illegible] the [illegible] of [illegible] [illegible].
It does not appear that formal grants were made to the [illegible], though in
some instances [illegible] were [illegible] to mark off the boundaries of the [illegible]
square leagues, and to [illegible] the [illegible] to which particular [illegible] should be
applied. But the rights of the [illegible] and their [illegible] to the use and
enjoyment of the lands [illegible] were [illegible] upon [illegible] and
[illegible].

It follows from these [illegible] that [illegible], which is admitted to
have been regularly [illegible] in the [illegible] of the [illegible] on the [illegible] of
July, 1844, [illegible] [illegible] [illegible] the [illegible] of [illegible] square leagues of
land, or [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] in the
nature of the [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] to [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
grant from [illegible] [illegible].

It is [illegible] to [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] of
the rights or the [illegible] [illegible] to [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]

A decree will be entered confirming the claim of the City of San Francisco to a tract of land, situated in the County of San Francisco, and embracing so much of the peninsula upon which the City is located, as will contain an area equal to four square leagues as described in the petition. From the confirmation will be excepted such parcels of land within said tract as have been heretofore reserved or dedicated to public uses by the United States or have been by grant from lawful authority vested in private proprietorship. The confirmation will be in trust for the benefit of lot-holders under grants from the pueblo, town or city; and as to any residue, in trust for the use and benefit of all the inhabitants. A decree will be prepared by counsel in conformity with this opinion, and submitted to the Court.

(In accordance with the foregoing opinion, a decree was entered on November 2, 1864, confirming the claim of the city, and on the same day an order was entered allowing an appeal in behalf of the United States to the United States Supreme Court. Soon afterward, one John B. Williams, an attorney, claiming to act on the part of the United States, made a motion to vacate the order allowing an appeal, to open the decree, and to grant a rehearing in the cause. In December following, Delos Lake, United States Attorney, under instructions from the United States Attorney-general, joined in the motion. The proceedings and points made are fully stated in the opinion rendered on denying the motion, filed May 11, 1865.)

DECREE OF CONFIRMATION OF PUEBLO CLAIM.

(November 3, 1864)

In the Circuit Court of the United States for the Northern District of the State of California.

The City of San Francisco)
vs)
The United States.)

In this case, after hearing the proofs and allegations, and the arguments of counsel, it is ordered, adjudged, and decreed, that the claim of the petitioner is valid for four square leagues of land, and that the same be confirmed to that extent, as hereinafter stated.

The land of which confirmation is made, is a tract situated within the County of San Francisco, and embracing so much of the extreme upper portion of the peninsular upon which the City of San Francisco is situated, as will contain an area of four square leagues, as described in the petition. From this confirmation are excepted such parcels of land as have been, by grant from lawful authority, vested in private proprietorship, and finally confirmed to claimants under the same by the respective tribunals of the United States. All of which excepted lands are to be included in the area of the four leagues when computed, and excluded from the tract hereby confirmed as finally surveyed, either by fixed boundaries or other precise description. This confirmation is in trust for the benefit of the lot holders under grants from the pueblo, Town or City of San Francisco, or from other lawful authority in that behalf and as to any residue for the use and benefit of the inhabitants of the City.

FIELD, J.

NOTICE OF MOTION OF JOHN B. WILLIAMS TO VACATE ORDER ALLOWING APPEAL
(November 14, 1864)

In the Circuit Court of the United States for the Tenth Circuit.
In and for the Northern District of California.

The City of San Francisco
v.
The United States.

Gentlemen:-

Please take notice that on Monday, the 21st day of November instant at II o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, I will move the Court to vacate the order entered herein on the 2nd day of November, 1864, granting an appeal in behalf of the United States to the Supreme Court; to open the decree of the Court confirming the claim of the said City, entered on said 2nd day of November, 1864; and to grant a rehearing in the cause before a full ~~xxxxx~~ bench, to be had at such time as the Court may deem proper to assign.

The motion will be made upon the ground that the decision of the Circuit Judge on the 31st day of October last was rendered under a misapprehension of the facts, and without considering the brief of the United States, which was suppressed by the Clerk of this Court; and will be based upon the papers in the case, the opinion of the Circuit Judge, and the affidavit of the special counsel for the United States, a copy of which is hereto annexed.
Dated San Francisco, November 14, 1864.

(Signed) Jno. B. Williams
Special counsel for the U.S.

To John H. Saunders, Esq.,
John W. Dwnielle, Esq.,
E. W. F. Sloan, Esq.,
Counsel for the city.

In the Circuit Court of the United States for the Tenth Circuit.
In and for the Northern District of California.

AFFIDAVIT OF JOHN B. WILLIAMS ON MOTION TO VACATE APPEAL.

THE CITY OF SAN FRANCISCO,)
v.)
THE UNITED STATES.)

NORTHERN DISTRICT OF CALIFORNIA, ss.

John B. Williams of said district being duly sworn, on oath says, that he is special counsel for the United States in this cause, having been employed by the Attorney-General of the United States on the 4th day of March, 1862. That in the month of February,1856, the Board of Land Commissioners rendered its decision in favor of the City upon the following conclusions.
"1st, That a pueblo or town was established under the authority of the Mexican " Government in California on the site of the present City of San Francisco, and " embracing the greater portion of the present corporate limits of said City.
" 2nd. That the town so established continued and was a municipal corporation on " the 7th of July, 1846.
" 3d. That at or about the time of its establishment, certain lands were assigned " and laid off, in accordance with the laws, usages and customs of the Mexican " nation, for the use of the town and its inhabitants, and the boundaries of said " lands determined and fixed by the proper officer appointed for that purpose by the " Territorial Government:
" 4th. That the boundaries so established are those described in the communication " from Governor Figueroa to M. G. Vallejo, dated November 4th, 1834, a copy of " which is filed in the case, marked exhibit No. 18 to the deposition of M. G. Vallejo."

That thereupon a decree was entered by the Board in conformity with its opinion; and an order entered directingtwo transcripts of the proceedings before the Board to be made out, one of which, on the 3d of March, 1856, was filed in the Northern District Court, and the other transmitted to the Attorney-General of the United States:

That on the 2nd June, 1856, a notice from the Attorney-General of the United States, that he intended to prosecute the appeal of the United States from the decision of the Board, was filed in the District Court; and on the 29th August following a like notice was filed in behalf of the City;

That on the 2nd January, 1857, translations of certain documents, known as the "Green Paper" were filed on behalf of the City upon the stipulation of S. W. Inge, Esq., former District Attorney for the City, and William Blanding, Esq., District Attorney for the United States: That on the 30th March, 1857, in pursuance of notice from Attorney-General Cushing that the appeal of the United States would not be prosecuted, a stipulation was entered into by Mr. Blanding, District Attorney, for the United States, and Messrs, Halleck, Peachy and Billings and Mr. J. B. Crockett for the City, that the City might proceed under the decree of the Board as under final decree; and an order to that effect was duly entered:

That on the 3d August, 1857, William Blanding, Esq., District Attorney, was substituted as the attorney for the City; that subsequently, by stipulation, the testimony of Gumecindo Flores was taken before a commissioner at Santa Barbara, and filed on behalf ot the City on the 27th October, 1857: That subsequently the testimony of Jose Antonio Alviso and Eusebio Galindo was taken in behalf of the City and filed November 19th, 1857--showing that the City notwithstanding the dismissal of the United States, continued to prosecute her appeal:

That on the 18th July, 1860, S. W. Holladay, Esq., was substituted as attroney for the City; and that on the 28th July the petition of E. W. Burr, by his attorney F. M. Haight, was filed, averring that he had been informed that the prosecution of the appeal of the City had been entrusted to the City Attorney and the Judiciary Committee of the Board of Supervisors, who intended to dismiss the appeal, and praying that the said Haight might be substituted as attorney for the City, in order that said appeal might not be dismissed but prosecuted.

That on the 17th January, 1861, Mr. James F. Shunk, special agent of the Attorney-General in California, addressed affiant a note proposing to employ

affinat in behalf of the United States inland cases pending under the Act of 1851, with a provision that in case the employment should not be completed by the 18th of the succeeding month of April, the payment of part of the consideration should be discretionary with the Attorney-General under the incoming administration; that the proposition of Mr. Schunk was accepted by affiant on the 18th January, and the contract ratified by Attorney-General Stanton, now Secretary of War, on the 1st of March, who specially directed affiant to see that appeals were taken in all cases decided against the United States: that on the 17th April, 1862, affiant received a communication dated March 4th, from the Attorney-General's office, stating that the contract made by affiant with Mr. Schunk had been approved by the present administration,and proposing to employ affiant in three cases not included in said contract, to-wit, No. 423, U.S. v. City of Sonoma; No. 426, U.S. v. White and Branham, claiming Pueblo Lands of San Jose; and No. 427, U.S. v. City of San Francisco--The compensation to be paid out of the fund for special and other extraordinary expenses in California land claims; and that affiant replied to this communication on the 30th April, accepting the employment;

That in the meantime, to-wit, on the 18th March, 1862, Mr. John H. Saunders was substituted as counsel for the City; that on the same day an order was entered, upon notice regularly given by the District Attorney allowing the City sixty days to close her proofs, and allowing the United States a reasonable time thereafter for a like purpose; that on the 6th May, and after affiant had accepted the employment of the United States, the City was allowed thirty days additional timeto close her proofs; on the 18th June thirty days more; and on the 16th July thirty days more; that the register of the District Court shows that from the 14th November, 1857, to the 16th August, 1867, a period of nearly five years, no witness was examined on behalf of the City, nor any measure taken to speed the cause; that on the 16th August R. C. Hapkins was produced by the City as a witness, and examined by E.W.F. Sloan, Esq.,a socunsel for the City and cross-examined by affiant as counsel for the United States, and that in behalf of the City eighteen exhibits were referred to on his direct examination, and in behalf of the United States twenty-four exhibits were referred to on his cross-examination; that on the 29th Auguat H. F. Feschemacher was examined on behalf of the City, and his testimony objected to as incompetent by affiant, who notes objection in writing on the deposition as Attorney for the United States; that on the 2d September, the deposition of Mr. John W. Dwmelle one of the counsel for the City (though the record fails to show that either he or Mr. Sloan were substitutes in place of or joined with Mr. Saunders), was taken and filed in the cause; that upon this deposition is noted, as present at the examination, John W. Dwmelle, of counsel for claimant;"John B. Williams, of counsel for the United States," in the handwriting of Mr. Dwmelle; that on the same day affiant filed, in behalf of the United States, three exhibits under a stipulation entered Auguat 29th, between himself, as attorney for the United States, and Mr. Dwmelle; and that on the same day Mr. Dwmelle filed as exhibit in behalf of the City and under an indorsed consent between him and affiant:

That on the same day the cause was submitted on briefs to be filed, counsel at the same time stating the points upon which they each relied; that the points on the part of the United States, drawn up by the affiant were:

1st. That the case must be tried on its merits on the appeal of the City, and without regard to the dismissal by the united States of their appeal.

2d. That all documentary and parcel evidence not produced from or supported by the archives must be excluded upon consideration, and everring Exhibit Vallejo No.18,known as the Zamorano document, to be a forgery, and the testimony of Gumecindo Flores disproved by the archives.

3d. That the archives do not show that any establishment, recognized by Spanish or Mexican laws as a constitutional pueblo ever existed within the l limits of the territory claimed by the City, but, on the contrary, that the archives do show that no such organization ever existed, and

4th. That the City under the fourteenth section of the Act of 1851, was entitled only to a confirmation for the lots granted by Mexican authority prior to the 7th July, 1846; and that the points relied upon by the City, and those relied upon by the United States, were noted as filed on the minutes of the District Court, and published in the "Alta California", of September 3d, under the head of"Court Proceedings:"

That on the 16th February, 1863, over five months having elapsed without a brief in behalf of the City, the District Attorney and affiant, in behalf of the United States, served notice upon Messrs Dwinelle and Sloan, that a motion would be amde on the 19th that the Court fix a time within which they should file a brief in behalf of the City; that in pursuance of said notice, the District Court on the 24th entered an order allowing them thirty days for that purpose; that not only was the order of the Court not complied with within the time specified, but that over sevem months elapsed before Mr. Dwinelle sent to affiant his brief in behalf of the City, which affiant received on the 1st October, 1863, thirteen months having been consumed by Mr. Dwinelle in the preparation of his bried comprising 102 printed pages, besides 114 printed pages of addenda; that affiant in consequence of the delay on the part of Mr. Dwinelle, was unable to prepare and submit his brief in reply prior to his departure for the Atlantic States early in December, 1863; that affiant returned to California on the 25th July, 1864, and on the 23rd August a notice was served on the District Attorney and on affiant, that on the 29th a motion would be made to submit the cause finally and peremptorily for decision; that this notice was addredded to "W.H. Sharp and J. B. Williams. for def't," and signed by John H. Saunders, J. W. Dwinelle, and E. F. Sloan, of counsel for pl'ff", and that the body of the notuce, the signatures, and the directions are all, as affiant believes in the handwriting of Mr. Dwinelle; that said motion was heard on the 30th, the District Attorney and affiant being present, and an order entered allowing further time to file a brief in behalf of the United States:

That on the 5th September, in pursuance of the provisions of the Act of Congress entitled "An Act to expedite the settlement of titles to lands in the State of California," approved July 1, 1864, an order was entered by the District Court, transferring the cause to this Court, and that, on the 27th, all the papers on file and of record in the cause were delivered to the Clerk of this Court by the clerk of the District Court; that on Monday the 3d October, the case was called by the Circuit Judge in its regular order on the calender, the District Attorney and affiant being present; that no argument was made by either side, and that the case was formally submitted by the District Attorney on behalf of the United States, the District Attorney stating that the brief which he held in his hand was submitted as the brief of the United States in the cause; that said brief had been prepared and was signed by affiant as attorney for the United States, and was then and there delivered to George C. Gorham, clerk of the Court who received it without objection either verbal or written; that on said 3d October no objection was made by the Court, the District Attorney, the counsel for the City, or the clerk, to the submission and reception of said brief of the United States, but, on the contrary, the District Attorney presented it, the court received it, the clerk took charge of it, and Mr. Dwnielle remarked he would hand his own inon the next day; that affiant on the 5th finding he had omitted the statement of some facts in his brief, prepared a short supplemental brief, which he handed to Mr. Gorham in his office, who, in presence of affiant, filed the same; that on the 6th affiant who was acting as counsel for the United States in the case of the City of Sonoma, in precisely the same manner and under the same employment as in the City of San Francisco case, handed his brief in behalf of the United States in that case, which has also been submitted to the Court, to Mr. Gorham, in his office, who thereupon indorsed it as filed:

That on the 28th October, George C. Gorham, without authority from the Court, so far as affiant is informed, nor at the request of the District Attorney, but, as subsequently stated over the signature of Mr. John W. Dwnielle, upon his own motion endorsed upon the said brief of affiant as follows:

"This brief has been handed to me by Mr. John B. Williams, Esq., but it
" is not marked filed, as said Williams does not appear in the case by the authority
"
" of the District Attorney.
" San Francisco, 28th October, 1864.
" George C. Gorham, Clerk."

And also indorsed upon said supplemental brief of affiant as follows:

"This paper was filed by mistake. See reasons in indoesement on original brief.

George Graham, Clerk."

And affiant further says he is informed, and believes, that said Gorham unwarrantably, and in derogation of rights of affiant as a member of the bar, and of the rights of the United States as litigants in their own Court, supprssed the said briefs, and withheld them from the Circuit Judge, and that the arguments submitted in behalf of the United States were, in consequence of such usurpation of power by the clerk, not considered by the Circuit Court in his determination of the case, but that said cause was decided nder a misapprehension of the positions taken by, and the proofs afforded in behalf of, the United States; that the decision of the cause was announced from the bench of this Court by the Circuit Judge on the 31st October, only three days including one Sunday, subsequent to the date of the indorsement of the clerk upon the brief of the United States; that by said indorsement itself the brief of the affiant was a good brief from the 3d October, when the cause was submitted, to the 28th, when said indorsement was made, and should have been handed, with the record, to the Circuit Judge, or notice given to the District Attorney and affiant by the clerk of his intended action in the premises, in which case the interests of the United States might have been protected, but affiant expressly says that he remained entirely ignorant of the action of the said clerk until informed by the card of Mr. Dwnielle, which appeared in the "Evening Bulletin" of November 2d;

And affiant further says, that the opinion of the Circuit Judge, delivered Oct. 31st, was published in the "Alta California", of November 1st, with editorial comments, which stated that the District Attorney had conceded: 1st. That a pueblo existed here at the time of the American conquest on the 7th July, 1846. 2d. That such pueblo owned the amount of town lands given to pueblos under the Mexocan law; and-- 3d. That the present City of San Francisco succeeded the pueblo as the owner of these lands. That affiant was greatly surprised at this statement, and immediately addressed a note to the editors of the "Alta", denying that any such concessions had been made, either by the District Attorney or himself, which was published with comments in the "Alta" of November 2d; that during the session of this Court on the 2d, a decree was signed by the Circuit Judge, which states that "after hearing the proofs and allegations, and the arguments of counsel, it is ordered, adjudged, and decreed, " etc., and an appeal taken from this decree by the District Attorney in behalf of the United States; that affiant was present when the decree was entered and the appeal taken, but was in utter and entire ignorance of the fact that the brief for the United States, submitted on the 3d October, had been suppressed by the clerk of this Court; that in the "Evening Bulletin" of the same day appeared a communication over the signature of Mr. Dwnielle, in reply to the note of affiant published in the "Alta" stating that the brief of affiant was not placed on the files of this Court for the reason, at the time officially and expressly endorsed upon it; that tge authority of affiant to appear in the case was not manifested, and that the Clerk of this Court took this course not from any knowledge or suggestion of the counsel for the City, but upon his own knowledge of his official duties; and these statements of Mr. Dwniellewas the first intimation affiant had of the unbecoming conduct of the clerk; that affiant proceeded immediately to the clerk's office to see Mr. Gorham, but was unable to find either him or his deputy, that on the morning of the 3d November, the Circuit Judge having given notice he would hold Court at eight o'clock for a few moments, affiant was in attendance having in the meantime obtained his brief from the clerk's office, for the purpose of calling the attendance of the Circuit Judge to the gross misconduct of the Clerk of this Court, and for the purpose of giving notice in open Court that an application would be made for a re-hearing, on the ground that the cause had been decided under misapprehension, but as the Circuit Judge did not appear, affiant was unable

to accomplish his purposes; and that both the Circuit Judge and the Clerk sailed for Panama on the Steamer "Golden City", on the morning of the said 3d November, 1864.

And affiant further says that in the opinion rendered by the Circuit Judge it is said: "The dismissal of the appeal on the part of the United States may very properly be regarded as an assent by the Government to the main facts upon which the claim of the City rests -- namely, the existence of an organized pueblo at the cite of the present city upon the acquisition of the country by the United States on the 7th day of July, 1846; the possession by that pueblo of propriating rights in certain lands, and the succession to such proprietary rights by the City of San Francisco. The District Attorney, therefore does not deem it within the line of his duty to control these positions, but, on the contrary, admits them as facts in the case." That affiant is informed by the District Attorney that he admitted nothing, but that he considered the cause submitted on the brief prepared by affiant, that said brief contended: 1st. On the authority of Le Roy v. Wright, decided by the Circuit Judge of this Court, that the prosecution by the City of her appeal kept open the whole issue notwithstanding the United States had dismissed their own appeal. 2d. That the case of Hart v. Burnett, decided by the State Supreme Court is not binding upon this Court in the present proceeding, where the United States are parties. 3d. That the City has failed to show herself the successor in interest of any pueblo existing on the 7th July, 1846, and that giving to the ;4th section of the Act of 1851 the widest and loosest construction, the petition of the city for a confirmation to lands lying outside the Charter limits of 1850-51 must be dismissed for want of jurisdiction; and 4th. That a pueblo existed on the 7th July, entitled under the laws, usages, and customs of Mexico to four leagues of land in the present County of San Francisco, or to any greater or less quantity, except so far as lots may have been granted in private ownership prior to the 7th July, 1846, and which, under the 14th section of the Act of 1851, would be entitled to a confirmation in the name of the City: That the "dismissal of the appeal on the part of the United States counsel be "properly regarded as an assent to the main facts upon which the claims of the "City rests;" because: 1st. Said dismissal was based, as affiant is informed and believes, upon the decision of the Board that certain lands had been assigned and laid off by competent Mexican authority, and the boundaries thereof described in the document known as the Zamorano Document, which document, at the time of the visit of Hon. E. M. Stanton, special agent of the Attorney-General to this country, was ascertained to be a forgery, but not until after the entry of the stipulation dismissing the appeal of the United States. 2d. That the said stipulation was never intended to operate except as expressed on its face, to-wit: that the United States would not prosecute their appeal, and not that they would decline to oppose the appeal of the City. 3d. That the employment of affiant in the cause by the Attorney-General more than two years ago was for the express purpose of defending the rights of the United States against the appeal of the City, and that much testimony has been taken and labor expended in that behalf; and 4th. That the voluminous brief of Mr. Dwnielle of counsel for the City, would not have been prepared with so much labor and expense if the dismissal of the appeal of the United States had been considered as an assent by the Government to the main facts upon which the claim of the City rests.

(Signed) John B. Williams
Special Counsel for the United States.

Subscribed and sworn to before me
this 14th day of November, A.D. 1864.
W. H. Cheeners U.S. Com.
Northern Didtrict of California.

Service of copy of within notice and affidavit admitted this 15th Nov. A.D. 1864.
Atty. of the City and County of San Francisco.

Recd. copy within notice and affidavit this 15th November A.D. 1864.
John W. Dwnielle
of counsel for City of San Francisco.

Served copy within on E.W.F. Sloan Esq. by leaving it at his office with Mr. Provines, San Francisco, Nov. 15, 1864,
Theodore M. Jewett.

NOTICE OF MOTION OF DELOS LAKE TO VACATE ORDER ALLOWING APPEAL.

(December 19. 1864)

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE TENTH CIRCUIT
IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA.

THE CITY OF SAN FRANCISCO
vs.
THE UNITED STATES.

San Francisco Dec. 19, 1864.

To John H. Saunders, Esq.,
Atty. for the City of San Francisco.

Please take notice that on Saturday, the twenty-fourth day of December, 1864, at II o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, I will move the Court to vacate the order granting an appeal herein heretofore entered, to open the decree of confirmation heretofore entered, and to grant a rehearing in the cause, to be had at such time as the Court may deem proper to assign.

(Signed) Delos Lake
U. S. Atty.

THE PUEBLO CASE.

CITY OF SAN FRANCISCO	)	CIRCUIT COURT, NORTHERN DISTRICT OF CALIFORNIA.
— vs. —	)	
	)	MAY II, 1865
UNITED STATES.	)	

(4 SAWYER p. 568)

OPINION OF MR. JUSTICE FIELD DENYING MOTION TO OPEN DECREE.

This case was submitted to the court for its consideration on the fourth of October last, and was decided on the thirty-first of the same month. The decree confirming the claim of the city was settled and entered on the second of November, and on the same day an appeal was allowed at the instance of the United States to the Supreme Court.

On the fourteenth of November, John B. Williams, styling himself "special counsel" for the United States, gave notice that he would move the court on the twenty-first of the same month, to vacate the order allowing the appeal, to open the decree confirming the claim of the city, and to grant a rehearing of the case, upon the ground that the decision of the Circuit Court "was rendered under a misapprehension of the facts, and without considering the brief of the United States, which was suppressed by the clerk of this court," In support of the motion, the notice was accompanied with an affidavit of Mr. Williams, in which he states that he is "informed and believes" that the clerk of the court "unwarrantably and in derogation of his (said Williams) rights "as a member of this bar, and of the rights of the United States as litigants in their own courts, suppressed" his briefs in the case, and "withheld them from the circuit judge, and that the arguments submitted in behalf of the United States were in consequence of such usurpation of power by the clerk, not considered by the circuit judge in his determination of the case, but that said cause was decided under a misapprehension of the positions taken by, and the proofs offered in behalf of the United States."

The affidavit contains other allegations based upon the assumption that the brief had been suppressed and withheld from the circuit judge. It also refers to certain concessions alleged to have been made by the district attorney, which will be particularly considered hereafter.

In this proceeding the district attorney was not consulted, and that officer upon hearing of it, addressed a note to the "special counsel" refusing his assent to the motion, and stating that all motions and all other proceedings in the conduct of the cause must be made by him. Mr. Williams, however, persisted in the motion, and endeavored to have the same heard by the district judge, who did not sit in the case or participate in its decision.

The position of the district attorney in claiming the control of the cause was entirely correct. He is the regular officer of the government, having charge of all its legal proceedings within his district, subject only to the general direction and supervision of the attorney-general. When other counsel are employed in these proceedings, it is to aid him in their management, not to assume his authority or direct his conduct. The position of Mr. Williams was solely that of assistant counsel. He could not control the proceedings in the case, or bind the government by his admissions or action.

And it appears also from the statement of the district attorney, that Mr. Williams at the time had been retained and paid as counsel by claimants of what are known as "outside lands", that is, of lands within the asserted limits

[illegible]

[illegible]

[illegible]

of the pueblo, but outside of the tract confirmed to the occupants by ordinances of the city, and the legislation of the State, and the general government, and that the interests of these third parties, upon the question of excepting from the decree of confirmation the government reserves,were directly in conflict with those of the United States.

But there were other considerations which undoubtedly governed the conduct of the district attorney. Some of the statements made in the affidavit he knew were inaccurate, and the correctness of other statements he had good grounds to distrust. He was also influenced, as we have reason to believe, by a just sense of the impropriety of asking a district judge, though holding the circuit court, to vacate a decree rendered by the circuit judge, in a case of such magnitude and importance, immediately after that officer had left the State, not upon grounds apparent upon the record, but upon statements, the truth of which rested chiefly in the knowledge of the latter.

The district judge did not sit in any of the cases heard at the October term by the circuit judge, and it is a matter of regret that the benefit of his counsel and assistance was not had in the determination of the present case. The familiarity of that officer with the laws and customs and policy of Mexico in the disposition of her public domain, and in the establishment and endowment of her municipal bodies,would have greatly lessened the labor of investigating the case. But as he did not participate in its consideration, the district attorney, as we may suppose, naturally felt the indelicacy of asking any subsequent interference by him, which, under the circumstances would have been to ask him to do an act of judicial discourtesy.

The attorney-general, in subsequently directing the district attorney to unite in the motion, was under the impression that it was the ordinary case of an application for a rehearing before the same judge who rendered the decision. When made acquainted with the circumstances he directed the postponement of the motion until it could be heard by that officer. In the investigation of the case, the briefs of the special counsel were carefully examined. His first brief was handed by the clerk to the circuit judge the day on which the case was submitted, and the second brief was handed to him on the day of its presentation. Both were retained in his possession until after the decision was rendered and announced in court. Numerous other briefs bearing on the question of the existence of a pueblo at the site of the present City of San Francisco upon the session of the country, were also examined by him, particularly the elaborate brief of Mr. Nathaniel Bennett, late one of the justices of the Supreme Court of this State; and the brief of Mr. Horace Hawes of this city. These briefs were all on the same side of the question taken by the "special counsel", and are characterized by great ability and learning, and until the appearance of the brief of that gentleman they were supposed to have exhausted the argument on that side.

These several briefs were rendered by the circuit judge without any indorsement by the clerk, and are still in his possession. The briefs of Mr. Williams were returned to the office of the clerk. But as it was generally understood at the time that he was retained by the occupants of "outside lands", and the district attorney knew of no other authority for his appearance as counsel, the clerk indorsed upon one of them the reason for not marking it filed, and upon the other brief that it was marked filed by mistake, and left them both in that condition among the papers of the case to be given to the author when called for. His action in this respect was at that tiem approved by the circuit judge. No such injurious suggestion was made, or if made, entertained for a moment, that Mr. Williams was also retained by the United States, and thus had a "divided duty" between the settlers and the government.

From these indorsements alone the special counsel drew his conclusion that his briefs were suppressed. Upon these indorsements alone as he stated on the argument of this motion, he made the affidavit that he was "informed and believes" his briefs were suppressed and withheld from the circuit judge. His conclusion in this respect was illogical; there is no necessary connection between the indorsements made and the suppression alleged. The indorsements gave no such information as represented.

The subject provokes further comment , but we refrain, and will only observe that it is the first time within our judicial experience that any counsel has had the hardihood to make oath to what must necessarily have been with him only a matter of inference, and assuming his inference to be a fact has proceeded to cast imputations of misconduct upon officers of the court.

In the opinion rendered in this case, after stating that by the appeal on the part of the city the whole issue was open, the court said: "But though the whole issue is thus open,the dismissal of the appeal on the part of the United States may very properly be regarded as an assent by the government to the main facts upon which the claim of the city rests, namely: the existence of an organized pueblo, at the site of the present city, upon the acquisition of the country by the United States, on the seventh of July, 1846, the possession of that pueblo of proprietary rights in certain lands, and the succession to such proprietary rights by the city of San Francisco. The district attorney does not, therefore, deem it within the line of his duty to controvert these positions, but on the contrary admits them as facts in the case, contending only that the lands appertaining to the pueblo were subject, until by grant from the proper authorities they were vested in private proprietorship, to appropriation to public uses by the former government, and since the acquisition of the country by the United States. He, therefore, insists upon an exception from the confirmation to the city of land heretofore reserved or occupied by the government for public use, and I do not understand that the counsel of the city objects to an exception of this character."

The views thus expressed of the effect which may justly be given to the dismissal of the appeal of the United States, the special counsel finds inconsistent with the views expressed in the case of LeRoy v. Wright (ante,530), and the concessions alleged to have been made by the district attorney he asserts are denied by that officer.

There is no inconsistency in the views expressed in the two cases. In LeRoy v. Wright, certain officers of the army of the United States, acting under orders of the secretary of war, had taken possession of a tract of land adjoining the premises claimed by the complainant at Black Point, within the city limits and commenced the erection of fortifications for the protection of the harbor of San Francisco, and had declared their intention to take like possession of the premises in controversy, and to appropriate them for the erection of barracks and other buildings required in connection with the fortifications. The complainant by his suit, sought to restrain such appropriation until compensation to him for the property was previously made. He derived his title under the city of San Francisco, and, as evidence that the ownership of the property had been adjudged to the city as the successor of the former pueblo, he produced the decree of the board of land commissioners confirming her claim. As the appeal from this decree on the part of the United States had been dismissed by consent of the attorney-general, he regarded the decree as closing the controversy between the city and the government as to the land to which the claim was confirmed, and so his counsel contended.

But the court held that in this view of the case the counsel was mistaken; that, had the city withdrawn her appeal, such result would have followed; but as she continued to prosecute it for an additional quantity beyond that confirmed, the whole issue was opened. The counsel of the United States was therefore allowed to introduce certain documents on file in the office of the surveyor-general of the United States for California, tending to show that a tract embracing the premises in question had been excepted and reserved from sale for public purposes, by order of the President, as early as November, 1850; evidence which had been inadvertently omitted when the case was pending before the board of land commissioners. It was not then pretended by counsel or held by the court, nor has it ever been pretended or held since, that the dismissal of the appeal by the United States was an act withoutany significance. On the contrary, the dismissal has always been regarded as an admission by the government of the main facts upon which the claim of the city rests. The land commissioners had adjudged that there was an organized pueblo at the site of the present site of San Francisco; that such pueblo held certain proprietary rights to land, and that the city had succeeded to those rights. The United States said in substance, through

their highest legal officer, we admit the correctness of this adjudication; we acknowledge the law and the facts to be as there declared; and we consent that this recognition of the validity of the claim of the city to some lands shall be carried into the decree of the court. And it was so carried into the decree, and that decree still remains of record in full force. Although on appeal the whole issue be opened, this recognition of the rights of the city does not lose all efficacy as evidence on the new hearing. Admissions once made in a cause are not necessarily excluded from consideration because a second trial of the same issue is had.

The consent of the government thus remaining on the files of the court, and being embodied in its decree the only questions of difficulty in the case necessarily related to the extent and boundaries of the claim of the city, and of the reservations of the government for public purposes.

In the statement filed by the district attorney, he mentions that, after the case had been submitted, one or more meetings were had at chambers, before the circuit judge, and additional testimony put in and discussion had relatove to the government reserves; and that,"free conversations took place touching the law and facts;" that he conceded that by repeated decisions of the Supreme Court of the State, the existence of a pueblo was the settled law; and that in view of this state of the law, in connection with the fact that the appeal on behalf of the United States had been dismissed by the attorney-general, he neither asked nor desired a re-examination of the question in this court.

To this statement we only add that the understanding of the circuit court of the concessions made by the district attorney, and of the assent made by the counsel of the city with respect to lands reserved or occupied by the government for public purposes, was expressed in the paragraph cited from his opinion. That paragraph was written after the "free conversations" of counsel before him, "touching the law and the facts", and it was read to the district attorney and the counsel of the city before the opinion was delivered in court. Neither of these gentlemen expressed at the time any dissent from its language, or any intimation that the circuit judge had misapprehended the concessions, nor was any suggestion made by the district attorney, until after the opinion was published, that the statement of the concession was in any particular too broad and comprehensive.

These concessions, however, did not determine the case, They only obviated the necessity of setting forth a detailed statement of the evidence upon which the claim of the city rested. Referring to them, the opinion says: "It is unnecessary, therefore, to recite the historical evidence of the existence of a pueblo previous to and at the date of the acquisition of the country at the present site of the city of San Francisco, which is very fully presented in the elaborate opinion, filed by the commission on the rendition of its decision. Since that decision was made the question has been considered by the Supreme Court of the State, and, in an opinion in which the whole subject is examined, a similar conclusion is reached; and is anything were wanting in addition to the arguments thus furnished, it is found in the able and exhaustive brief of the counsel of the city. "

The decision was based upon the documentary evidence found in the record, and the action of the officers of the government after the conquest.

"The documents, says the opinion, "of undoubted authenticity, to which the opinions and brief of counsel refer, establish beyond controversy the fact that a pueblo of some kind, having an ayuntamiento composed of alcaldes, regidores, and other municipal officers, existed as early ae 1834, and that the pueblo continued in existence until and subsequent to the cession of the country. The action of the officers of the United States in the government of the city and the appointment and election of its magistrates after the conquest, both preceding and subsequent to the treaty of peace, proceeded upon the recognition of this fact; and the titles to property within the limits of the present city, to the value of many millions, rest upon a like recognition."

We have thus disposed of the main positions upon which the motion rests, The affidavit, it is true, contains several other matters; it details at some length the connection of the special counsel with the case, and it gives an account of the communications made to public journals of the city in relation to

the decision of the court and the decision of the counsel, but it is not perceived that these particulars, however interesting in themselves, have any pertinancy to the motion presented. The affidavit also attempts to state what the special counsel contended for in his brief, but as this appeared by the brief itself, which was considered by the court previous to the decision, no information is imparted by the statement.

It follows that the motion to open the decree and to grant a rehearing must be denied. It only remains to dispose of that part of the motion which asks that the order granting the appeal be vacated. We are disposed to think that a vacation of the order was only desired as a preliminary to the opening of the decree. Of course, if the United States desire the appeal to be withdrawn, their wishes in this respect will be carried out. The order denying the motion generally will therefore be subject to theri right to renew the motion in this particular.

Motion denied.

THE PUEBLO CASE.

CITY OF SAN FRANCISCO)	CIRCUIT COURT, NORTHERN DISTRICT OF CALIFORNIA.
-vs-)	
UNITED STATES.)	May 18, 1865
	(4 Sawyer 576)

FINAL DECREE CONFIRMING PUEBLO LANDS TO CITY OF SAN FRANCISCO.

The appeal in this case taken by the petitioner, the city of San Francisco, from the decree of the Board of land commissioners to ascertain and settle private land claims in the State of California, entered on the twenty-first day of December, 1854, by which the claim of the petitioner was adjudged to be valid, and confirmed to lands within certain described limits, coming on to be heard before the transcript of proceedings and decision of said Board, and the papers and evidence upon which said decision was founded, and further evidence taken in the District Court of the United States for the Northern District of California pending said appeal -- the said case having been transferred to this court by order of the said District Court, under the provisions of Section four of the act entitled "An Act to expedite the settlement of titles to lands in the State of California," approved July 1, 1864--and counsel of the United States and for the petitioner, having been heard, and due deliberation, had, it is ordered, adjudged and decreed that the claim of the petitioner the City of San Francisco, to the land hereinafter described, is valid, and that the same be confirmed.

"The land to which confirmation is made is a tract situated within the County of San Francisco, and embracing so much of the extreme upper portion of the peninsula above ordinary high-water mark (as the same existed at the date of the conquest of the country, namely: the seventh of July, A.D. 1846), on which the City of San Francisco is situated, as will contain an area of four square leagues-- said tract being bounded on the north and east by the bay of San Francisco; on the West by the Pacific Ocean; and on the south by a due east and west

line drawn so as to include the area aforesaid, subject to the following deductions, namely: Such parcels of land as have been heretofore reserved or dedicated to public uses by the United States; and also such parcels of land as have been by grants from lawful authority vested in private proprietorship, and have been finally confirmed to parties claiming under said grant, by the tribunals of the United States, or shall hereafter be finally confirmed to parties claiming thereunder by said tribunals, in proceedings now pending therein for that purpose; all of which said excepted parcels of land are included within the area of four square leagues above-mentioned, but are excluded from the confirmation to the city. The confirmation is in trust, for the benefit of the lot-holders under grants from the pueblo, town or city of San Francisco, or other competent authority, and as to any residue, in use for the use and benefit of the inhabitants of the city.

Field, Circuit Judge.

"San Francisco, May 18, 1865."

THE PUEBLO CASE.

CITY OF SAN FRANCISCO	)	CIRCUIT COURT, NORTHERN DISTRICT OF CALIFORNIA.
— vs. —	)	
	)	May 29, 1865.
— UNITED STATES. —	)	(4 Sawyer p.578)

OPINION OF MR. JUSTICE FIELD DENYING MOTIONS FOR APPEAL.

Both parties to this case desire to appeal from the final decree entered on the eighteenth instant--the United States from the whole of the decree, and the city of San Francisco from so much of the decree as includes in the estimate of the quantity of four square leagues confirmed, the parcels of land which have been reserved or dedicated to public uses by the United States.

When the appeal from the decree as originally entered on the second of November last was allowed, it was supposed, without examination, that an appeal would lie to the Supreme Court. Since then our attention has been called to the act of July 1, 1864, under which the Circuit Court acquired its jurisdiction, and to the fact that it makes no provisions for a review of the decisions of the court.

The jurisdiction of the Supreme Court under previous acts of Congress over the judgments and decrees of the Circuit Court, is limited to a review of final judgments and decrees in cases originally instituted in that court, or transferred to it from the courts of the several States, or removed to it by appeal or writ of error from the District Courts of the United States. (The Judiciary Act of September 24,1789, Sec.22, 1 Statutes at Large, 73; the act of March 3, 1803, in addition to the Judiciary Act, Sec. 2, 2 Id. 244; the act of July 4, 1836, to promote the progress of the useful arts, Sec.17, 5 Id. 124; the act of July 4, 1840, in addition to the acts respecting the judicial system of the United States, Sec. 3,5, Id. 392; the act of May 31, 1844, amending the Judiciary Act, 5 Id. 658.)

The act of March 3, 1851, to ascertain and settle private land claims in the State of California, does not provide for any consideration by the Circuit Court of the cases of this character. The jurisdiction over these cases is by that act vested, in the first instance, in a board of commissioners, and afterward, on appeal from the decision of the board, in the District Court. From the decrees of the District Court an appeal lies directly to the Supreme Court.

The act of July 1, 1864, authorizes a transfer from the District Court to the Circuit Court of cases of this kind, where the district judge is interested in the land, the claim to which is pending before him, and also where the case affects the title to lands within the corporate limits of any city or town; but it does not confer any right of appeal from the action of the Circuit Court in these cases after they are transferred.

The Supreme Court by the Constitution, takes its appellate jurisdiction over cases "with such exceptions and under such regulations as the Congress shall make." And the designation by acts of Congress, of the cases to which this jurisdiction shall extend, has been held to be a legislative declaration that all other cases are excepted from it.

"When the first legislature of the Union," says Mr. Chief Justice Marshall, "proceeded to carry the third article of the Constitution into effect, they must be understood as intending to execute the power they possessed of making exceptions to the appellate jurisdiction of the Supreme Court.

They have not indeed made these exceptions in eepress terms. They have not declared that the appellate power of the court shall not extend to certain cases; but they have described affirmatively its jurisdiction, and this affirmative description has been understood to imply a negative on the exercise of such appellate power as is not comprehended within it." (Durousseas v. The United States, 6 Cranch, 307.) And, in illustration of this principle, reference is made to the provision of the law which allows a writ of error to a judgment of the Circuit Court, where the matter in controversy exceeds the value of $2000. "There is no express declaration," says the Chief Justice, "That it will not lie where the matter in controversy shall be of less value. But the court considers the affirmative description as manifesting the intent of the legislature to except from its appellate jurisdiction all cases decided in the circuits where the matter in controversy is of less value, and implies negative words."

It follows, therefore, that the appellate jurisdiction of the Supreme Court exists only in those cases in which it is expressly granted. In conformity with this principle, it has been held that such jurisdiction does not extend to final judgments in criminal cases, it not being conferred by Congress. A question arising in a criminal case can only be brought before the Supreme Court for decision upon a certificate of a division of opinion between the judges of the Circuit Court. (Forsyth v. The United States, 9 How. 571). So under the Judiciary Act of 1789, jurisdiction to review a judgment or decree of the Circuit Court, rendered in an action brought before it from the District Court on writ of error, was denied, as the act only mentioned judgments and decrees brought before the Circuit Court on appeal from the District Court. (United States v. Goodwin, 7 Cranch, 108.) And in Barry v. Mercein (5 How. 120) it was decided that under the twenty-second section of the Judiciary Act, whcih provides for a review by the Supreme Court of final judgments and decrees of the Circuit Court, where the matter in dispute exceeds the sum or value of $2000, the appellate power of the court did not exist unless the matter in dispute was money, or some right, the value of which in money could be calculated and ascertained. In that case the controversy was between parents fot ehe custody and care of their child, a matter, as justly observed, rising superior to all money considerations; yet the court refused to entertain jurisdiction, observing that there were no words in law which, by any just interpretation could be held to authorize it to take cognizance of cases to which no test of money value could be applied; that a similar limitation upon its appellate power existed with reference to judgments in criminal cases, although the liberty or life of the party might depend on the decision of the Circuit Court; and that inasmuch as it could exercise no appellate power unless it was conferred by act of Congress, the writ of error issued in the case must be dismissed. (5 How. 103).

From these authorities--and others to the same effect might be cited- it is clear that in the absence of any provision in the act of July 1, 1864, giving a right of appeal from the decieion of the Circuit Court in the present case, the right does not exist.

Nor is the absence of such provision an oversight on the part of Congress. It is evident, we think, from the general language of the act, and the object sought to be accomplished by it, that it was the intention of the legislature to give finality ot the action of the Circuit Court in the cases transferred to its jurisdiction.

The act was designed, as its name purports, to expedite the settlement of titles to land in the State. Great delays and embarrassments were found to exist in determining the location and boundaries of tracts confirmed after the question of title had been adjudicated. The hearing by the District Court of exceptions to surveys returned by the surveyor-general, interposed by parties possessing or asserting adverse interests, the taking of depositions, the discussion of counsel, and the modifications or new surveys sometimes ordered, necessarily occupied the time usually taken by an ordinary suit at law. Then followed the right of appeal to the Supreme Court from the action of the District Court, not merely by the original contestants to the proceeding, but by third parties intervening, whether adjoining proprietors, purchasers under

the original grantee, of persons claiming by pre-emption, settlement, or other right under the United States. To obviate the delays and expense necessarily attending proceedings of this character, particularly as occasioned by the appeal to the Supreme Court, and to relieve that tribunal, already burdened by a crowded docket, the act limited its jurisdiction to cases in which appeals were then pending, and vested jurisdiction in the Circuit Court, over cases in which appeals might be subsequently taken. When from the decree of the District Court, approving or correcting the survey, no appeal had been taken, within twelve months after this act shall take effect, to the Circuit Court of the United States, for California, and said court shall proceed to fully determine the matter."

Following these provisions is the section which directs that when the district judge is interested in any land, the claim to which, under the act of March 3, 1851, is pending before him on appeal from the board of commissioners, the case shall be transferred to the Circuit Court, "which shall thereupon take jurisdiction and determine the same." The act then proceeds as follows: "The said District Courts may also order a transfer to the said Circuit Court of any other cases arising under said act, pending before them, affecting the title to lands within the corporate limits of any city or town, and in such cases both the district and circuit judges may sit."

At the passage of the act there were only two cases pending in the District Courts of California, with reference to which the authority conferred by this last clause could be exercised--the case of the City of San Francisco and the case of the City of Sonoma, both against the United States, The first case had been pending in the District Court for over eight years. In the meantime the City had extended in all directions, and interests of vast magnitude had grown up which demanded that the title to the land upon which the city rested should be, in some way, speedily and finally settled. The land commissioners had adjudged that the claim of the city was valid within certain described limits. The United States, through their highest legal officer, had assented to this adjudication; and the decree of the District Court, declaring its finality as against the government, had been on record for years, and was then in full force. And by the act itself the United States relinquished whatever right and title they possessed to the land within the Charter limits of 1851.

The case of the City of Sonoma had been likewise pending in the District Court on appeal for over right years. In this case, the United States had, through the attorney-general, signified their assent to a confirmation of the decree of the board, and the notice of prosecuting the appeal on the part of the city had not been given within the six months prescribed by the act of Congress. It was under these circumstances that the law was passed authorizing a transfer of these cases to the Circuit Court. If an appeal from its action had been intended, no beneficial object would have been accomplished by the transfer, for the same delay would follow an appeal from the Circuit Court as would follow an appeal from the District Court. Nor can any reason in that view be assigned for allowing both the district and circuit judges, if they desired, to sit in the hearing of these cases.

If the mattere were less clear we might yield to the suggestion of counsel, and allow the appeal pro forma; but as we have no doubt whatever that our decision is final, our duty is plain. We might with equal propriety sign a citation upon an appeal under the twenty-second section of the Judiciary Act where the matter in dispute is less than the sum of value of two thousand dollars.

The decisions not being subject to appeal, the controversy between the city and the government is closed, and the claim of the city stands precisely as if the United States had owned the land and by and act of Congress had ceded it, subject to certain reservations, to the city in trust for the inhabitants. Motions to allow an appeal denied.

NOTICE OF APPLICATION TO THE SUPREME COURT OF THE UNITED STATES, ON THE PART OF THE UNITED STATES, FOR A MANDAMUS COMMANDING THE JUDGES OF THE CIRCUIT COURT OF THE UNITED STATES, IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA, TO ALLOW AN APPEAL TO THE SUPREME COURT OF THE UNITED STATES FROM THE DECISION OF THE SAID CIRCUIT COURT IN THE **PUEBLO CASE.**

(The Circuit Court having confirmed the claim of the City of San Francisco for four leagues of Pueblo Land (ante, page 250, No. CXXVI), and both parties having moved for an appeal from said decision, and said motions having been denied (ante, pages 251, 255, Nos. CXXVII-CXXIX), the District Attorney of the United States moved the Supreme Court of the United States for a Mandamus to compel the allowance of such appeal, upon the following papers.)

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No. I.

Notice of Motion for Mandamus.

Please to take notice, that on an affidavit, with a copy whereof you are herewith served, a motion will be made before the Supreme Court of the United States, at the next term thereof, to be held at the Capitol, in the City of Washington, on the first Monday of December next, at the opening of the Court on that day, or as soon thereafter as counsel can be heard, that a writ of Mandamus issue from the said Supreme Court to the Circuit Court of the Tenth Circuit of the United States, in and for the Northern District of California, therein and thereby commanding the said Circuit Court, or the Judges thereof, to allow an appeal in the case, matter, or proceeding mentioned and set forth in the foregoing affidavit, and from the judgment, decree, and final decision of the said Circuit Court therein, to the said Supreme Court; and for such other and further order in the premises as shall be deemed fit and proper.

Dated, October 16th, 1865.

Yours etc.,

Delos Lake,
United States Attorney.

To the Judges of the Circuit Court, Tenth Circuit.

-oOo-

No. II.

Affidavit for Mandamus.

State of California,)
City and County of San Francisco.) SS.

Delos Lake, United States Attorney for the Northern

District of California, being sworn, deposes and says:

That on the second day of July, A. D. 1852, the City of San Francisco, a body corporate and politic, created and existing by and under the laws of the State of California, filed its petition before the Board of Commissioners to Ascertain and Settle Private Land Claims in the State of California, praying for a confirmation to said city of four square leagues of land upon the peninsula on which said city is situated, and including the site of said city; which said claim was made by said grant of said four leagues of land to said Pueblo, for municipal purposes, by the former governments of Spain and Mexico. That, thereupon and thereafter, such proceedings were had by and before said Board of Commissioners, that on the twenty-first day of December, A. D. 1854, a decree was entered by said Board of Commissioners, confirming to said city a portion of said lands so claimed, but not the whole of the same, from which decree the said City of San Francisco appealed, on the twenty-ninth day of August, A. D. 1851; and the United States also appealed on the second day of June, A. D. 1856, and the transcript on said appeals was duly filed in the office of the Clerk of the District Court of the Northern District of California, in which district all the lands so claimed are situated, on the third day of March, A. D. 1856. That afterwards, and on or about the day of the appeal on behalf of the United States was dismissed.

That on the fifth day of September, A. D. 1863, the case was, by an order made by the said District Court, and entered in its minutes, transferred to the Circuit Court of the United States, in and for the Northern District of California, and the said transcript was thereupon filed in the office of the Clerk of said Circuit Court, on the fifth day of September, A. D. 1864. That thereupon and thereafter, such proceedings were had in and by the said Circuit Court, that on the eighteenth day of May, in the year 1865, a decree was made and entered by said Circuit Court, confirming the said claim of the said City of San Francisco, to said four leagues of land, with certain reservations and exceptions specified in the said decree.

That after the said last mentioned decree had been entered, the United States, by its District Attorney of the Northern District of California, moved the said Circuit Court, in open Court, on or about the twenty-fifth day of May, 1865, to allow an appeal from said decree, to the United States so applying therefor, to the Supreme Court of the United States, which motion was, by an order, entered in the minutes of said Circuit Court, on the twenty-ninth day of May, A. D. 1865, peremptorily denied, upon the sole ground that no such appeal was allowable by law, but that the decree of the said Circuit Court, was final in the premises.

A copy of the final decree is hereto annexed, marked "A".

A copy of the order dismissing the appeal, is hereto annexed, marked "B".

Delos Lake.

Subscribed and sworn to, before me, this sixteenth day of October, 1865.

Geo. H. Gorham, U. S. Commissioner.

EXHIBIT "A":- Final Decree Confirming the Claim of the City of San Francisco to its Pueblo Lands, Entered May 18th, 1865. The City of San Francisco vs. The United States.

(This decree is set forth in full, ante, page 250, No. CXXVI.)

REPORT OF SPECIAL COMMITTEE OF THE BOARD OF SUPERVISORS ON PLAN FOR RESERVATIONS IN AND CONVEYANCES OF OUTSIDE LANDS.

December 11, 1865.

On the eleventh of December, 1865, a Special Committee of the Board of Supervisors, consisting of Frank McCoppin, E.N. Torrey, Monroe Ashbury, Chas. H. Stanyan, Chas. Clayton, submitted a Report in the matter which was considered and adopted on the twenty-sixth of same month.

This report formed the basis of a bill which was subsequently introduced in the State Legislature, and passed both Houses, but failed to receive sanction of the Executive.

The conclusions arrived at by the Committee are shown by their recommendations unanimously consurred in to-wit:

"FIRST--- That the Board of Supervisors be authorized to appoint three Commissioners who shall be known as the San Francisco City and County Land Commissioners, whose duty it shall be, as soon as practicable after their appointment, to ascertain the character and extent of claims to the Pueblo lands of the City, and appraise the value of the same, irrespective of the value of inprovements thereon.

"SECOND---That the said Commissioners shall have power to execute or cause to be executed, deeds of release and quitclaims to the parties in the actual possession thereof, by themselves or tenants, or by their co-tenants in joint or common tenancy on or before the first day of January, eighteen hundred and sixty-five, with the reservations, conditions, and exceptions hereinafter mentioned, all right, title, and claim of said City and County to the lands described in the aforesaid decree of the United States Circuit Court, situated without the corporate limits of the City of San Francisco, as established by an act to re-incorporate said City, passed April fifteenth , 1851; provided such possession has been continued up to the present time, or if interrupted by an intruder or trespasser, has been or may be recovered by legal process; provided also, that no claimant shall be entitled to hold more than fifty acres of the said lands, and that as a condition precedent to the execution and delivery of any deeds as aforesaid, the parties claiming the lands shall be required to pay into the Treasury of the City and County of San Francisco, for a tract not exceeding ten acres, ten per cent of its appraised value, and for every additional ten acres up to fifty acres, ten pre cent shall be added; thus, there shall be charged for ten acres ten per cent; for the second ten acres twenty per cent; for the third ten acres thirty per cent; for the fourth ten acres forty per cent and for the fifth ten acres fifty per cent of its appraised value and in the same proportion for fractional quantities.

"THIRD----That where a tract of land exceeds in quantity the limit herein expressed and defined, the claimant shall, before receiving a deed as aforesaid, be required to quit-claim, and peaceably deliver the possession of any surplus so held and claimed to the Commissioners, for the use and benefit of the City and

[illegible]

[illegible] Commissioners of the County of [illegible] Lake.

January 11, 1815.

On the already well known, John, a special committee of the House of Representatives, consisting of Messrs. Knapp, Mr. Berry, Lewis Mallory, Gen. H. Stanton, Gen. Clark, Colonel, submitted a report to the matter which was considered and adopted on the twenty-third of same month.

This report proved to be one of a full which was exceedingly interested in the State legislature, and passed both Houses, and issued a complete exoneration of the Executive.

The resolutions adopted by the Committee are shown by their preamble, shown unanimously concurred in as follows:

"FIRST--- That the Board of Supervisors be authorized to appoint three Commissioners who shall be sworn by the presiding Judge and County Commissioners, whose duty it shall be, as soon as practicable after their appointment, to assemble in the Courtroom and proceed to examine the Public Land of the County, and ascertain the value of the same, irrespective of the value of improvements thereon.

"SECOND---That the said commissioners shall have power to summon or cause to be summoned, before them witnesses to give evidence in the premises in the usual manner, by summons or subpoena, or by their co-Commissioner to issue an common summons or to direct the Clerk of Court of Lake County, administer oaths, with the penalties, qualifications, and emoluments therein mentioned, all right, title, and claim of said County to the lands described in the aforesaid Journal of the Public Sales Board, situated within the corporate limits of the City of San Francisco, as established by an act to incorporate said City, passed April Fifteenth, 1850, providing such possession has been continued up to the present time, or if interrupted by an injunction or otherwise, has been or may be restored by legal process, provided also, that no claimant shall be entitled to hold more than fifty acres of the said land, and that no a condition precedent to the execution and delivery of deed shall be required, the purchase money of the lands shall be required to pay back the Treasury of the City and County of San Francisco, for a tract not exceeding two acres, the per acre of the appraised value, and for every additional fractional to fifty acres, ten per acre shall be added; when, more than one hundred acres ten per acre; for one hundred and more than three hundred per acre; for the other three hundred and more than fifty per acre; for the other fifty per acre; for the remaining fifty per acre; for the same proportion for fractional quantities.

"THIRD---That where a tract of land exceeds in quantity the limit herein prescribed and fairness, the claimant shall, before receiving a deed be allowed, by verdict to sub-divide, and thereupon deliver the possession of any portion so held and claimed if the commissioners, for the use and benefit of the City and

County of San Francisco, to be disposed as hereinafter recommended, provided the parties in possession, whose claims are recognized by the Commissioners, shall be authorized and required to locate in one compact body, as nearly as possible, the quantity of land allotted to them, and to which they shall be entitled; provided, always, that the amount of the taxes levied on said lands and paid by the claimants or their grantors to the City and County of San Francisco, for municipal purposes, since the year 1860, shall be credited to the said claimants and reckoned as a part of the amount to be exacted by and paid to the City.

FOURTH----That the Commissioners, with the concurrence of the Board of Supervisors, shall be required to lay off and reserve one or more Public Parks, and to lay off, appropriate and reserve sufficient lands for charitable objects, and City Cemetery, and for schools. hospitals and engine house lots, or for other necessary public purposes, at convenient distances, with a view to provide for the wants, comfort, health, and recreation of the inhabitants of the City; provided, that if the lands claimed by any valid claimant shall be taken for any of the aforesaid purposes, equivalent allotments shall be provided for them by the Commissioners out of the nearest ungranted lands to such valid claim, or where this cannot be done the City shall pay for the lands so taken at the same rates charged by her for lands to be granted, according to the terms hereby recommended; provided, also, that the improvements thereon shall be paid for at their full appraised value, said appraisement to be made by the Commissioners.

"FIFTH----That the residue of said lands shall be sold at public sale, under the direction of the Commissioners, in such quantities and upon such terms as will enable persons of limited means to purchase homesteads--provided the Commissioners shall have power--and it shall be made their duty to remit to the parties purchasing, fifty per cent of the amount remaining due and unpaid to the City on account of purchases, to all those who shall within one year from the date of sale expend a sum equal to fifty per cent of the purchase price of their lots, in fencing, building upon and otherwise improving the same, provided also the terms of the sale shall be one-third cash, one-third in one, and the balance in two years

"SIXTH--- That the proceeds of such sale as well as all moneys received for grants of land made as aforesaid, shall be paid into the Treasury of the City and County of San Francisco, and shall constitute a fund to pay for lands taken by the City of San Francisco, for the purposes herein mentioned and in the manner heretofore expressed, and for the opening of free roads through said lands to the ocean beach, and for the improvement of the grounds reserved for a public park or parks."

The effect of the Executive Veto was to return the subject matter to the Board of Supervisors, in which body it was subsequently taken up and referred to a new Committee, composed of Supervisors Clement, Rowell, Ashbury McCoppin, Stanyan. This Committee, on the seventeenth of September, 1866, introduced an order known as Order No.733. which was passed for printing, and on the twenty-fourth of the same month referred to the Judiciary Committee, by which it was favorably reported with amendments, October 1st, and again passed for printing; on the eighth of same month was finally passed, received the signature of the Mayor on the twelfth of October.

MANDATE TO U.S. CIRCUIT COURT TO ALLOW APPEAL FROM U.S. CIRCUIT COURT.
(January 29, 1866)

Supreme Court, U.S.
1865 TDec. Term,
No. 9. Original
Mandamus.

Filed June 12, 1866
Geo.C. Gorham
Clerk of the U.S. Circuit Court
Nor. Dist. Cal.

United States of America ss.
The President of the United States of America:
To the Honorable Judges of the Circuit Court of the United States, for the
SEAL) Northern District of California.
Greeting:

Whereas lately, in the Circuit Court of the United States for the Northern District of California before you, or some of you in a cause between the City of San Francisco, appellant, and the United States, appellee, an order was entered on the 29th day of May, 1865, denying the motion for an appeal to the Supreme Court of the United States from the decree of said Circuit Court entered on the 18th day of May, 1865 in said cause-- And whereas at the present term of the Supreme Court of the United States begun and held at the City of Washington on the first Monday of December in the year 1865, the Attorney General of the United States did on the 22nd day of said term, file a certain Motion, affidavits and exhibits thereto attached for a writ of mandamus to be directed to the Circuit Court of the Tenth Circuit requiring and commanding the said Circuit Court of the Judges thereof to allow an appeal on behalf of the United States in the said cause from the decree of the said Circuit Court therein to the said Supreme Court of the United States, and for such other and further order in the premises as shall be deemed fit and proper -- And whereas afterwards to wit at the same term of the said Supreme Court the said motion coming on to be heard on the affidavit and exhibits thereto attached and upon the arguments of counsel thereupon had as well in support of as against the same, it is considered ordered and adjudged by the said Supreme Court that the writ of the United States issue, requiring and commanding the Judges of the Circuit Court of the United States for the Northern District of California to allow an appeal as prayed for, in the case of the City of San Francisco vs. The United States, from the decree of the said Circuit Court entered in said cause on the eighteenth day of May 1865 and to issue all and every process necessary to perfect said appeal. You, therefore are hereby commanded that immediately after the receipt of this writ and without delay, you do allow the appeal in said cause on behalf of the United States as, according to the right and justice, and the laws of the United States -- so that complaint be not again made to the said Supreme Court, and that you certify perfect obedience and due execution of this writ to the said Supreme Court to be held on the first Monday of December next and return then and there this writ.

Witness the Honorable Salmon P. Chase Chief Justice of said Supreme Court, the twenty-ninth day of January in the year of our Lord one thousand eight hundred and sixty six.

(Signed D. W. Middleton
Clerk Supreme Court U.S.

AN ACT TO QUIET THE TITLE TO CERTAIN LANDS WITHIN THE CORPORATE LIMITS OF THE CITY AND COUNTY OF SAN FRANCISCO.

March 8, 1866.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That all the right and title of the United States to the land situated within the corporate limits of the city of San Francisco, in the State of California, confirmed to the city of San Francisco by the decree of the circuit court of the United States for the northern district of California, entered on the eighteenth day of May, one thousand eight hundred and sixty-five, be, and the same are hereby relinquished and granted to the said city of San Francisco and its successors, and the claim of the said city to said land is hereby confirmed, subject, however, to the reservations and exceptions designated in said decree, and upon the following trusts, namely, that all the said land, not heretofore granted to said city, shall be disposed of and conveyed by said city to parties in the bona fide actual possession thereof, by themselves or tenants, on the passage of this act, in such quantities and upon such terms and conditions as the legislature of the State of California may prescribe, except such parcels thereof as may be reserved and set apart by ordinance of said city for public uses: PROVIDED, HOWEVER, That the relinquishment and grant by this act shall not interfere with or prejudice any valid adverse right or claim, if such exist, to said land or any part thereof, whether derived from Spain, Mexico, or the United States, or preclude a judicial examination and adjustment thereof.

Approved, March 8, 1866.

AN ACT AUTHORIZING FINAL JUDGMENTS QUIETING TITLE TO LANDS IN THE CITY AND COUNTY OF SAN FRANCISCO TO BE RECORDED.

(Approved March 31, 1866)

THE PEOPLE OF THE STATE OF CALIFORNIA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Final judgments quieting titles to land in the City and County of San Francisco, may be recorded in the office of the Recorder of the City and County of San Francisco in the same manner and at the same expense as deeds of conveyance are by law authorized to be there recorded. And from and after the time of so recording the same, they shall be deemed and held to impart notice to third persons as fully as though they were conveyances. Final judgments aforesaid heretofore recorded in said Recorder's office, if recorded in books of deeds therein, shall impart notice as aforesaid without necessity of recording the same a second time.

ORDER ALLOWING APPEAL TO U.S. SUPREME COURT.

(June 12, 1866)

U. S. Circuit Court. Northern District.

The City of San Francisco

vs

The United States.

Filed June 12, 1866,
G. C. Gorham Clerk.

U. S. Circuit Court, Nor. Dist. Cal. June Term, 1866. Present Hon. S.J. Field, Assoc. Jus. U.S. Sup. Court. June 12, 1866.

The City of San Francisco)
vs.)
The United States)

On reading the mandate of the Supreme Court of the United States bearing date on the twenty-ninth day of January one thousand eight hundred and sixty-six directed to the Judges of this Court, commanding them to allow an appeal on behalf of the United States to the Supreme court from the decree of this Court entered in the above entitled cause on the eighteenth day of May one thousand eight hundred and sixty-five, it is ORDERED in obedience to said mandate, that an appeal to the Supreme Court on behalf of the United States from the decree of this Court in the above entitled cause entered on the Eighteenth day of May, One thousand eight hundred and sixty-five be and the same is hereby granted, and that a certified transcript of the record of the proceedings in the said cause be sent to the said Supreme Court without delay.

San Francisco June 12, 1866.

A true copy from the minutes of the U.S. Circuit Court, June 12, 1866.

Geo. C. Gorham
Clerk.

ORDER ALLOWING APPEAL ON BEHALF OF CITY OF SAN FRANCISCO ALLOWED.

(June 12, 1866.)

The City of San Francisco

vs.

The United States.

Order
allowing appeal on behalf of the City

Filed Sept. 3d, 1866.
Geo. C. Gorham
Clerk.

Circuit Court of the United States for the Northern District of California.

The City of San Francisco)
vs.)
The United States.)

And now at this day appears the City of San Frahcisco by John W. Dwinelle, Esq., her attorney in this case, and moves that an appeal be allowed on behalf of the said City from so much of the final decree of confirmation, rendered herein on the eighteenth day of May One Thousand Eight Hundred and sixty-five, as includes in the estimate of the quantity of four square leagues confirmed, the parcels of land which have been heretofore reserved as dedicated to public uses by the United States, and inasmuch as a motion in the same terms was made on the part of the City immediately after the rendition of said decree, and was on the twenty-ninth day of said May denied on the ground that said decree was not subject to appeal; and the Supreme Court has since adjudged that the said decree was subject to appeal; it is therefore ordered and decreed that the motion be granted, and that said appeal on the part of the City of San Francisco be allowed and entered nunc pro tunc as of said eighteenth day of May one thousand eight hundred and sixty-five.

September 3d, 1866.

(Signed) Field
Circuit Judge.

ORDER NO. 733.

(PASSED OCTOBER 8, 1866; APPROVED, OCTOBER 12, 1866)

(REPEALED BY ORDER NO.800, MARCH 27, 1868)

For settlement and quieting of the title to lands in the City and County of San Francisco, situated above high water mark of the Bay of San Francisco and the Pacific Ocean, and without the former corporate limits of the City of San Francisco.

The people of the City and County of San Francisco do ordain as follows:

Section 1. Immediately after the passage of this Order, the Board of Supervisors shall proceed to devise and adopt a plan for the subdivision of blocks and lots all lands not reserved to the United States, situated on the Peninsula of San Francisco, and within the present corporate limits of said City and County, and above the natural ordinary high water mark of the Bay of San Francisco and the Pacific Ocean, as the same existed on the seventh of July 1846, and without the corporate limits of the City of San Francisco as defined in the Act to re-incorporate said City passed by the Legislature of California on the fifteenth day of April, 1851, so far as said board may deem such subdivision necessary;and to select and set apart for public uses such lots and portions of said land as said board may deem necessary, subject to the limitations and provisions hereinafter in this order contained.

Section 2. After the adoption of the plan provided for in Section 1 of this Order, the Board of Supervisors,shall cause to be made a map of said lands according to said plans. Such a map shall show the streets and public highways, the blocks formed by the intersection of the streets and public highways, and the lots into which said blocks shall be subdivided; and upon such maps shall be designated the lots and portions of land set apart for public uses, and the particular use for which each lot or portion of land shall have been set apart.

Section 3. Upon the completion of the map provided for by Section 2 of this Order, it shall be deposited for public inspection in the office of the Clerk of the Board of Supervisors, and there remain for a period of sixty days and notice shall be published in three of the daily papers during the whole time that said map shall remain in said office.

Section 4. Any person having or claiminf any interest in any portion of said lands under and by virtue of any of the provisions of this Order, may at any time before the completion of said map, or while the same shall remain in the office of the Clerk of the Board of Supervisors for public inspection, present to the Committee on Outside Lands hereinafter ~~provided for~~ in this order provided for, a description and diagram of the lands in which he shall so claim an interest, and have the same delineated on said map, and may also present to the said Committee in writing his objections to the location or use of any lot or portion of land designated on said map as set apart for public uses and embraced within the description and diagram presented by him, but no claim shall be delineated upon said map by said Committee, unless all taxes have been paid thereon for the five fiscal years preceding the year beginning July 1st, 1866.

Section 5. After the said map shall have remained in the office of the Clerk of the Board of Supervisors for the said period of sixty days as provided in Section 3 of this Order, the Board of Supervisors shall examine the objections, if any, made thereto, and may make such alterations in the location or designation of any lots or portions of land set apart for public uses

as may be necessary to obviate any objection which the said Board may deem just and proper; provided, that no alteration shall be made which shall effect any person whose claim shall have been delineated on said map, and who shall not have made any objection to the location or designation of the lots or portions of land set apart for public uses.

Sec. 6. As soon as the alterations provided for, in Section 5 of this Order, shall have been made and delineated on said map, the said map shall become and be the official map of said lands; and the portions of land thereon designated as public streets and highways shall become and be dedicated to public use as streets and highways: and the lits and portions of land thereon designated as set apart for other public uses shall severally become and be dedicated to the uses forwhich they severally shall have been set apart.

Sec. 7. No lot set apart for public use, other than a park, plaza, cemetery or public square, or for the erection thereon of a City Hall, of buildings for a City Library, Hospital or an Asylum, shall exceed in extent two fifty-vara lots; and no tract or portion of land set apart for a plaza or public square, shall exceed in extent four whole blocks, formed by the intersection of the main streets of the plan; and the tract or portion of land set apart for a cemetery shall not exceed in extent two hundred acres, nor be less than one hundred acres; and the tract or portion of land set apart for a public park shall not be less than three hundred acres.

Sec. 8. In addition to the streets and highways not less than one-twentieth nor more than one-tenthpart of any tract which, including streets and highways, does not exceed fifty (50) acres in extent, shall be set apart for public use; but if any tract by the provisions of this Order would pass to one person, shall exceed fifty (50) acres in extent, including streets and highways, there shall be set apart for public use other than a public park, and for a cemetery, and in addition to the streets and highways, not less than one-twentieth not more than one-tenth part of fifty (50) acres; and not less than one-tenth part of all above fifty (50) acres, from any tract which by the provision of this Order, would pass to a number of persons as joint tenants or tenants in common, so much shall be set apart for public use and no more, as high the provisions of this section might be set apart if the interests of the respective tenants were several and divided. If of any tract less in extent than one-half of a block, formed by the intersection of the main streets of the plan, a portion shall be set apart for public use, other than for a public park, or for a cemetery, or for streets and highways, the person or persons to whom said tract would pass by the provisions of this Order, may purchase the amount so set apart for public use, by payment, to the City and County, in gold coin, the value thereof; the value to be determined by the Board of Supervisors on the report of the Committee on Outside Lands.

Sec. 9. The tract or portion of land set apart and designated on said map as a Public Park, and the tract or portion set apart and designated thereon as a cemetery, and the several portions thereon designated as public streets and highways, shall be deemed absolutely dedicated as such; but persons who, by the provisions of this Order would, but for such dedication, be entitled to any of the lands embraced within such Park or Cemetery, shall be entitled to receive compensation for their claims to portions to which they would be so entitled less the deductions which might be made therefrom according to the provisions of Section 8 of this Order, such compensation to be made according to the value of the lands taken, the value to be determined by the Board of Supervisors on the report of the Committee on Outside Lands; but no person shall be entitled to receive, either under the provisions of this Section or Section 8 of this Order, compensation for any lot or portion of land set apart for public use unless his claim shall have been delineated on the map hereinbefore in this Order provided for, nor until all conflicting claims to such lot or portion of land shall have been fully determined and no person shall be entitled to receive compensation for any portion of land included on any street or highway.

Sec. 10. No conveyance of any tract of land, or any interest therein made after the eighth day of March, 1866, shall be regarded in the selection and designation of lots and portions of land for public use; but the amount of land that may be reserved and set apart for public use shall be determined by the claims and possessions as they existed on the eighth day of March, 1866.

Sec.11. All that portion of the land described in section 1 of this Order which lies south of a line drawn due south eighty-one degrees and thirty-five minutes east magnetic, through Seal Rock and west of a line easterly not less than two hundred feet from ordinary high water mark, is hereby reserved and set apart for the public use as a public highway.

Sec. 12. The City and County of San Francisco hereby relinquishes and grants all the right, title and claim which the said City and County now has or may hereafter acquire as the successor of the Pueblo of San Francisco, or as the grantee or patentee of the United States, in and to the lands hereinbefore in this Order described, and not excepted or reserved,, or intended to be excepted or reserved by any of the preceding sections or provisions of this Order, and which may not be set apart for public use under any of the preceding sections or provisions, and upon which shall be paid previous to the first day of April, 1876, all taxes which have been assessed thereon, during the five fiscal years preceding the year beginning July 1st, 1866, unto the persons or the heirs or assigns of persons who were on the eighth day of March 1866, in the actual bona fide possession thereof, by themselves or their tenants or having been oysted from such possession before or since said day have recovered or may recover the same by legal process. And it is hereby declared to be the intent and object of thissection to pass the right, title, and claim of the said City and County in and to every tract or portion of said land, except the portions that are or may be reserved as aforesaid, possessed by one person, unto the possessor thereof in severalty; and every separate tract or portion thereof, except the portions that are or may be reserved as aforesaid possessed by more than one person jointly or in common, unto the possessors thereof jointly or in common.

Sec. 13. The grant and relinquishment by this Order made, shall be subject to the selections, reservations, and consitions gereinbefore in this Order made and provided for.

Sec. 14. A Committee of three members of the Board of Supervisors shall be chosen by said Board, whose duty it shall be to prepare and report to the Board, the plan provided for in Section 1 of this Order, to supervise the making of the map provided for in Section 2, to select, set apart, and designate the lots and portions of land hereinbefore provided to be set apart for public use, and generally to superintend the carrying out of the provisions of this Order; all the acts of said Committee to be subject to the approval of the Board of Supervisors.

Sec. 15. Whenever a survey shall be required to determine the boundaries of any claim or portion of any claim, whether ordered by the Committee or requested by the claimants, the expense of such survey shall be borne by such claimants,; and no survey shall be received by the Committee, except it shall have been made by the City and County Surveyor, or a Surveyor designated by the Committee; and the amount of compensation for such survey shall be fixed by the Committee at a reasonable rate not to exceed the ordinary charges for such services.

Sec. 16. The compensation which may become due, by virtue of sections 8 and 9 of this Order, shall be made in such manner as the Legislature may hereafter provide.

Sec. 17. This Order shall take effect from and after its passage.

Sec. 44. [illegible]

Sec. 45. [illegible]

Sec. 46. [illegible]

Sec. 47. [illegible]

Sec. 48. [illegible]

Sec. 49. [illegible]

Sec. 50. [illegible]

Sec. 51. [illegible]

Sec. 52. [illegible]

Sec. 53. [illegible]

Sec. 54. [illegible]

ORDER. NO. 748

TO EXPEDITE THE SETTLEMENT OF LAND TITLES IN THE CITY AND COUNTY OF SAN FRANCISCO.

(Approved December 22, 1866)

Whereas, the duly constituted authorities of the City of San Francisco have, by ordinances and orders, ceded the lands of said City and County to the parties in the possession thereof, subject to the exceptions and reservations in said ordinances and orders contained; and

WHEREAS, It is desirable that all parties should be quieted and secured in the possession of the lands rightly possessed by them, to which the City and County of San Francisco claims title---NOW, THEREFORE, THE PEOPLE OF THE CITY AND COUNTY OF SAN FRANCISCO DO ORDAIN AS FOLLOWS:

Section I. Upon receiving a petition from any person or persons, claiming that they by themselves, their tenants, or the persons through whom they claim or derive possession, have been, from and including the eighth day of March, 1866, and still are in the possession of any of the lands described in the decree of Justice Field, of the U.S. Circuit Court, confirming the claim of the City and County of San Francisco, entered November 2, 1864, in the Circuit Court of the United States for the Northern District of the State of California, or embraced within the corporate limits of the City of San Francisco, (and above high-water mark), as defined in the act to re-incorporate said City, passed by the Legislature of the State of California, on the 15th day of April, 1851, and that such lands have not been sold, leased, dedicated, reserved or conveyed by authority of the said City and County of San Francisco, or the United States, to any one for any purpose, asking for a grant from said City and County, the Board of Supervisors shall proceed to act thereon as hereinafter provided. The petition shall be verified by the oath or affirmation of the party in whose behalf the petition is presented, or by some one acting as his agent, and conversant with the facts detailed in the petition.

Sec. 2. All petitions mentioned in the first section of this Order, shall be referred to the Committee on Outside Lands; said committee shall appoint a clerk, who shall be a Notary Public, to perform the duties herein prescribed. The party presenting the said petition may appear before said clerk, and make proof, verbal and documentary, of the truth of the matters alleged in his petition Copies of the documentary evidence shall be filed with said clerk, and the oral testimony shall be reduced to writing by said clerk and subscribed by the witness. The proofs of the petitioner being closed, the said committee shall proceed to consider the same, and shall make such report and recommendation thereon as to them shall seem just and proper in the premises. The said committee shall file with the Clerk of the Board of Supervisors the testimony taken as aforesaid, together with a report of the said committee; and said report shall be submitted to the Board of Supervisors for their approval, and if, in their judgment, the claim of the petitioner is well founded, they shall, by an order entered in their minutes, adjudge and award a grant of such lands to the petitioner or petitioners therefor, less the amount reserved for public use. The said Board shall thereupon give public notice of their award, by a notice published for at least once a week for three successive weeks, in some daily public newspaper published in the City and County of San Francisco; which notice, shall specify the name of the applicant, the date and filing of his petition, and the tract of land awarded by a good and sufficient description thereof. Proof of publication of said notice shall be made in the manner now or hereafter required by law for the proof of publication in civil process. The clerk of the said committee shall be allowed the same compensation for taking the oath or affirmation of witnesses and for reducing the testimony to writing, as is now allowed by law to Notaries Public for like services on taking depositions. The compensation herein allowed the clerk of said committee shall be paid to said clerk by the party presenting the petition.

Sec. 3. Upon receiving proof of the publication of the notice provided for in the 2nd section hereof, it shall be the duty of the aforesaid Committee of the Board of Supervisors, or any two of such committee, to execute, acknowledge or deliver to the party of parties presenting the aforesaid petition, a deed of conveyance of the tract or lot of land as aforesaid adjudged and awarded to the petitioner; provided the petitioner or petitioners, shall, before receiving a deed as aforesaid, be required to quit-claim and peaceably deliver the possession of all land claimed by said petitioner or petitioners reserved by the Commissioners acting under ordinance eight hundred and twenty-two (822) and all those lands which shall be reserved by the Committee of Outside Lands, for the use and benefit of the City and County of San Francisco; provided, however, that in case a suit shall be pending between the petitioner and some third person, involving the right of possession of the tract, or some portion thereof petitioned for, and such person shall file with the Clerk of the Board of Supervisors a copy of the complaint filed in such action, before the deed shall have been executed and delivered to the petitioner, then, and in that case, the deed shall be withheld until such suit shall be finally determined, and there shall thereafter be executed a deed of conveyance of so much of the tract of land as shall be involved in the said suit, to the party in whose favor the said suit shall be finally determined as aforesaid; provided, further, that the expenses hereinafter provided for shall be paid before such conveyance shall be delivered.

Sec. 4. Upon the filing of a petition, as hereinbefore provided, the petitioner shall deposit with the Clerk of the Board of Supervisors a sum of money sufficient to pay for the publication of the notice, as hereinbefore provided, notarial fees, and other expenses incident to the granting of the prayer of the petition.

Sec. 5. A conveyance executed and delivered in pursuance of the provisions of this Order, shall operate to grant, convey remise and release to the party, his heirs and assigns therein, the lands in such conveyance described, and all the estate and interest, present and future, of the said City and County of San Francisco in and to such lands.

Sec. 6. The conveyance of any such lands made, as hereinbefore provided, shall not be deemed to include the rights of third persons.

Sec. 7. Nothing in thos Order contained shall be considered as in conflict with, or as abrogating any of the provisions of Order No. 733.

REPORT OF GEO. C. POTTER AND WM. P. HUMPHREYS.

(January 21, 1867.)

Outside Land Blocks.

On Monday evening in the Board of Supervisors the Chairman of the Committee on Outside Lands, which has had a plan under consideration for the subdivision of the blocks in the lands described in order No. 733, Section 1, submitted this recommendation.

(Alta. Vol. XIX., No. 7060, p. 1, col. 1.)
Jan. 23, 1867.

REPORT OF COMMITTEE ON OUTSIDE LANDS AS TO SUBDIVISION INTO BLOCKS, ETC.

(January 21, 1867)

OUTSIDE LANDS.

"The following report of the Committee on Outside Lands was presented to the Board of Supervisors last night.

To the Board of Supervisors,--The Committee on Outside Lands, having had under consideration a plan for the subdivision into blocks of the lands described in Section I of Order No. 733, respectfully recommend as follows:

That where the lands will admit of a right angled survey of blocks, the blocks will be 600 feet northerly and southerly and 240 feet easterly and westerly; that the streets running easterly and westerly have a width of 80 feet and the streets running northerly and southerly a width of 70 feet, except where the avenues should be introduced which should have a width of about 120 feet, excepting the "Point Lobos Turnpike" or "Cliff House Road", which is 125 feet wide and should be continued or extended easterly to its intersection with Cemetery Avenue.

That all the avenues passing through and around cemeteries be 100 feet wide.

That the public park, where the contour of the ground will permit, be surrounded by a grand avenue of at least 140 feet in width.

That when the contour of the ground will not admit of a right angle survey of the blocks, the width and direction of the streets and the size and form of the blocks be controlled to a great extent by the contour of the ground; that when the ground is rough and hilly the streets and blocks be laid out strictly in accordance with the contour of the same.

The plan above recommended is also approved by Messrs. Humphreys and Potter.

Respectfully submitted

R.P, CLEMENT.

(See Vol.XXIII, No. 89 San Francisco Evening Bulletin, Jan.22,1867. p. 3 Col 5.)

RESOLUTION 6404, APPROVING PLAN OF ENGINEERS.

(January 21, 1867)

Board of Supervisors met at usual hour. Present: Messrs. Daly, Clement, Phelps, Ashbury, Clayton, Tittel, Shrader, Reynolds, McCoppin and Stanyan. In absence of the Mayor, Mr. McCoppin was called upon to preside.

Resolutions adopted:

Resolution approving the plan recommended by the Committee on Outside Lands, for the subdivision into blocks of the land described in Section 1 of Order No. 733.

Resolution 6404 approving plan of engineers.

(Bulletin, Jan. 22, 1867, Vol. XXIII., No. 89, p. 3, Col. 3)

RESOLUTION No. 6457.

(February 4, 1867.)

Evening Daily Bulletin

San Francisco, Tuesday Evening, February 5, 1867.

Vol. XXIII., No. 101.

Board of Supervisors.

The Board of Supervisors met last evening at the usual hour. Present: Supervisors Daly, Clement, Phelps, Ashbury, Torrey, Clayton, Shrader, Reynolds, McCoppin and Stanyan. In the absence of his Honor Mayor Coon, Supervisor Clayton was elected President.

Adopted:

Resolution authorizing the County Assessor to employ a deputy.

(Bulletin Feb. 5, 1867. p. 3, col. 3)

FINAL ORDER OF U.S. CIRCUIT COURT DISMISSING APPEALS. (FEBRUARY 14, 1867,)

No. 288, December Term 1866.

MANDATE

Supreme Court United States.

366

The City of San Francisco

vs

The United States.

Filed February 4, 1867
Geo. C. Gorham Clk.

United States of America. ss.

The President of the United States of America,

To the Honorable the Judges of the Circuit Court of the United States, for the District of California

Greeting:

Whereas lately, in the Circuit Court of the United States for the Northern District of California in a cause between the City of San Francisco appellant, and the United States, appellees, wherein on the 18th day of May, 1865 a decree was entered in the following words viz:

"It is ordered, adjudged and decreed that the claim of the petitioner, the City of San Francisco, to the land hereinafter described, is valid, and that the same be confirmed.

The land of which confirmation is made is a tract situated within the County of San Francisco, and embracing so much of the extreme upper portion of the peninsular (sic.) above ordinary high water lark (as the same existed at the date of the conquest of the country namely the 7th of July, A.D. 1846) on which the City of San Francisco is situated, as will contain an area of four square leagues; said tract being bounded on the North and East by the Bay of San Francisco; on the West by the Pacific Ocean; and on the South by a due West line drawn so as to include the area aforesaid, subject to the following dedications, namely: such parcels of land as have been heretofore reserved or dedicated to public uses by the United States; and also such parcels of land as have been by grant from lawful authority vested in private ownership; and have been finally confirmed to parties claiming under said grants by the tribunal of the United States, or shall hereafter be finally confirmed to parties claiming thereunder by said tribunals, in proceedings now pending therein for that purpose; all of which said excepted parcels of land are included within the area of four square leagues above mentioned but not excluded from the confirmation to the City. This confirmation is in trust, for the benefit of the lot-holders under grants from the Pueblo Town, or City of San Francisco, or other competent authority, and as to any residue, in trust for thr use and benefit of the inhabitants of the City."

As by the inspection of the transcript of the record -- of the said Circuit Court which was brought into the Supreme Court of the United States by virtue of an appeal taken by the City of San Francisco agreeably to the Act of Congress in such case made and provided, fully and at large appears.

And whereas, in the present term of Dedember, in the year of our Lord one thousand eight hundred and sisty-six the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and on the motion of Mr. Attorney General Stanberry of counsel for the appellees and with the consent of MR. T. J. Coffey of counsel for the appellant per written stipulation on file -- it is now here ordered, adjudged and decreed by this Court that this appeal be and the same is hereby dismissed.

And it further ordered that this cause be and the same is hereby remande to the Circuit Court of the United States for the District of California 21st, Dec.

You, therefore, are hereby commanded that such proceedings be had in saidh case, at, according to right anf justice, and the laws of the United States, ought to be had, the said appeal notwithstanding;

Witness the Honorable Salmon P. Chase Chief Justice of the Supreme Court, the first Monday of December in the year of our Lord one thousand eight hundred and sixty-six.

Costs of _____
Clerk $_____(Signed) D. W. Middleton.
Attorney $_____ Clerk of the Supreme Court of the United States
$_____

RESOLUTION No. 6551.

(February 26, 1867)

Evening Bulletin, San Francisco,

February 26, 1867. Vol. XXIII., No. 119.

The Board of Supervisors met last evening at the usual hour. Present: Messrs. Daly, Clement, Phelps, Ashbury, Torrey, Clayton, Tittel, Shrader, McCoppin, and Stanyan. In the absence of his Honor Mayor Coon, Supervisor Clayton was elected President pro tem.

Surveys of Outside Lands.

Mr. Clement introduced a resolution that the Committee on Outside Lands be authorized to contract with Messrs. Humphreys and Potter to make the surveys and map or maps, at a cost not exceeding $12,000.

(Evening Bulletin, Feb. 26, 1867.)
(Vol. XXIII., No. 119, p. 3, Col. 4.)

ORDER No. 769.

EXTENDING TIME FOR PAYMENT OF TAXES.

(March 26, 1867)

Board of Supervisors.

The Board met at the usual hour pursuant to adjournment, Mayor Coon presiding.

Time extended:

The time to receive taxes on Outside Lands was extended to 1st of May, 1867.

(The Daily Times, March 26, 1867, Vol. I, No. 121, p. 3, col. 2)

ELECTION OF COMMITTEE ON OUTSIDE LANDS.

(December 2, 1867.)

Monday Evening, December 2, 1867.

The regular weekly meeting of the Board of Supervisors was held last evening. Present: Mayor Coon in the Chair; Supervisors Daly, Clement, Flaherty, Phelps, Ashbury, Torrey, Clayton, Tittle, Shrader, McCoppin and Stanyan.

Mr. Daly moved to go into the election of an Outside Land Committee.

Mr. Clayton moved an amendment that the Chair appoint a Committee of five.

Mr. Daly opposed the appointment by the Chair.

Mr. Clayton thought the committee of great importance, and hoped the President of the Board would have the appointment of the Committee.

Amendment lost by the following vote:

Ayes: Ashbury, Shattuck, Clayton, Nunan and Canavan.

Noes: Daly, Harrold, Flaherty, Cole, Cavallier, Shrader and Stanyan.

The motion to elect the committee was then carried by a vote of seven to five, the same members voting in a ring as above.

Mr. Ashbury, in justice to the residents of the Eleventh Ward, said he would nominate Mr. Canavan member from that ward, as one of the committee.

Mr. Stanyan having received nine votes, Mr. Shrader seven and Mr. Cole seven, they were declared the standing Committee on Outside Lands.

(The Times, Dec. 3, 1867, Vol. 3, No. 24, p. 1, Col. 4.)

RESOLUTION No. 7809.

APPROPRIATING $2500.00 for SURVEYS OF PUEBLO LANDS.

(December 24, 1867.)

Board of Supervisors.

The regular weekly meeting of the Board was held last evening. Present: Flahrety, (sic) Cole, Ashbury, Shattuck, Clayton, Cavallier, Shrader, Nunan, Canavan and Stanyan. Mayor McCoppin in the Chair.

Resolutions finally passed:

Appropriating $2,500 for the survey of the Pueblo Lands.

(The Times, Dec. 24, 1867, Vol. 3, No. 42, p. 1, col. 4.)

RESOLUTION No. 7844

RELATING TO RATIFICATION OF ORDER No. 748.

(January 6, 1868.)

Board of Supervisors.

The regular weekly meeting of the Board was held last evening. Present: Harold, (sic) Flaherty, Cole, Ashbury, Cavallier, Nunan, Canavan, and Stanyan. Mayor McCoppin in the Chair.

Resolutions adopted:

Requesting the Legislative delegation to procure the passage of an Act confirming Order 748, and all proceedings had under the provisions of said Act.

(The Times, Jan. 7, 1868, Vol. 3, No. 52, p. 1, col. 4.)

DECISION OF JUDGE PRATT

IN THE

PUEBLO LAND CASE,

DELIVERED AT THE JANURAY TERM, 1868.

W. W. JOHNSON AND OTHERS,)
)
- VS. -)
)
THE BOARD OF SUPERVISORS)
OF THE CITY AND COUNTY)
OF SAN FRANCISCO.)

IN THE DISTRICT COURT OF THE TWELFTH JUDICIAL DISTRICT,

CITY AND COUNTY OF SAN FRANCISCO.

This is a proceeding in equity. The substantial facts alleged are, that plaintiffs are citizens of the United States, inhabitants of the City and County of San Francisco, and tax-payers therein; that said city is the successor of the pueblo of Yerba Buena; and, that said pueblo was the creature of Spanish or Mexican laws, prior to the cession of California to the United States; that said pueblo was, and said city now is of right, entitled to four square leagues of land within said city and county; that said city and county now holds said lands, with certain exceptions, in trust, for the use of its inhabitants; that the object of said trust was, that each of the inhabitants of the pueblo should be entitled, as a matter of right, and as a beneficiary under said trust, to a small lot of land for the purpose of building a dwelling, and making himself a home and a place of business; that under the customs of said pueblo, said lots were obtained by petition addressed to the chief officer of the pueblo, and upon which a grant was made, vesting in the grantee in full ownership, the title of such lot; that the Board of Supervisors, including the Mayor, are the successors of the Alcalde and Ayuntamiento of said pueblo, and have authority and are charged with the duty of executing said trust; that there are several thousand acres of said lands so belonging to the city outside of what is known as the Van Ness Ordinance line, which are holden by said city for such purposes; that certain parties have taken possession of large tracts thereof, and are holding the same adversely to said city and the plaintiffs, and are thereby preventing plaintiffs and others equally interested with them from occupying the same as homes for themselves and families; and, it is averred that such appropriation casts a cloud upon the pueblo title and impairs the rights of plaintiffs, and causes great and irreparable damage to plaintiffs and other inhabitants of the city, for whose benefit, it is alleged, the action is brought; the defendants in October, 1866, passed an order entitled Order No. 733; that said order provides, that the city and county thereby relinquishes and grants all the right, title and claim which the said city and county has, as the successor of the pueblo or as the grantee or patentee of the United States, in and to all of

said lands lying outside of the said Van Ness Ordinance line, unto the persons or heirs and assigns of persons, who were, on the 8th of March, 1866, in the possession of said lands, excepting only therefrom certain reservations set aside for public use; that the defendants are taking proofs in behalf of said parties so in possession as to their possessions, and are granting said lands to parties so in possession in large tracts, embracing in certain cases to one individual many acres; that it is the intention of defendants, by said order, to give said lands to such parties so in possession; that plaintiffs in July, 1867, and many others, inhabitants of said city, severally filed with the clerk of defendants a petition, asking for a lot of land whereon to build a house, and specifying the particular lots asked for, and declaring that what was so severally petitioned for did not exceed in quantity 100 varas square, and that the same was vacant and unoccupied; that petitioners had never received grants of any lands within the town, and that each petitioner promised to build a house on the lot asked for within a year, and that the lands so petitioned for constituted no part of any reservation, park, cemetery, square, plaza, or other portion of lands set apart to public uses; that said petitions were presented to defendants at their regular meetings, but that they have failed and refused to grant the prayers of said petitioners or any of them; and further, that defendants threaten to destroy said petitions, unless taken away within ten days after notice given so to do; and for relief, plaintiffs pray the Court to restrain defendants from granting the lands outside of the Van Ness Ordinance line in quantities exceeding 100 varas square, upon proof of possession only, as provided in said Order No. 733; that defendants be enjoined from destroying said petitions, and that they be restrained from carrying into execution said Order No. 733; and further, that the Court declare the nature of said pueblo title so held by said city and county, as well as the nature of the trust to which said lands are subject; also, the officers by whom the same is to be executed, together with the manner of its execution; and, for other relief as the alleged facts entitle plaintiffs to have.

The case stands upon demurrer to the matters charged in the complaint; and, the questions involved are of the highest importance to a very large number of persons interested in their correct solution. It is to be regretted that it is impossible for the Court to bestow the needed attention upon them, occupied as it has constantly been since is submission by the pressing duties of jury trials. Besides, the complaint is not as carefully drawn as it should have been; it should have contained a statement only of the facts constituting the alleged cause of action. Ignoring, as it does, this proper feature, it is found to contain alleged facts and conclusions of law so intermingled as to cause difficulty in their separation. This is an annoyance to which the Court ought not to have been subjected, and probably would not have been but for haste in its preparation. As it is, the facts alone must be considered as admitted by the demurrer, however intermingled they may be with assertions of law in the averments of the complaint. In this opinion we shall deal only with what is thought essential to understand and determine the main matters in the case, and nothing beyond.

It being admitted that the legal title to the lands, which constitute the subject of this action, is now in the municipal corporation, over the affairs of which the defendants exercise certain limited and defined powers, the questions mainly to be determined are whence, and how, such legal title became so vested, and to what uses, as well as where is now lodged the

power, together with the means to render such uses effectual. These constitute the principal inquiries, which must be answered.

That the legal title, now so vested in the city and county, came either mediately or immediately from the government of Spain or Mexico, or that of the United States, is also admitted; but whether from the one or the other, it is insisted makes a material difference in the character of the trust in which the same is now holden. It was not derived from Spain through any grant or concession. Historically, it is known, that the entire lands embracing the city and county remained, for fourteen years and upward, after all Spanish connection with the country had ceased, the same as a century before, entirely vacant and unappropriated, It is true, however, that within the pueblo claim of four leagues there were, when the country was under Spanish rule, a small mission establishment for the education of Indians, and a small military post, distant from each other several miles; but both were in decay at the date of Mexican Independence as compared with their condition in former years, and they in no way affect the present question. The earliest claimed existence of the village or pueblo of Yerba Buena was in the latter part of the year 1834. This was many years after the Mexican nation had thrown off all Spanish rule and sovereignty in California, and other parts of Mexico.

It is undeniable that the source of the title, whatever it is, must be found in some sovereign authority, since it could emanate nowhere else. It certainly did not come from the Mexican Empire, under and through Iturbide, because the governmental rule and powers of the latter ceased long before the establishment of the town. If it did not come from Spain, then, it is claimed by plaintiffs, that the title came through the Mexican nation, under and in virtue of laws connected with the establishment of towns and villages upon the public domain, which laws, having been made during Spanish rule, were recognized by Mexico as in force in the year 1834, when the pueblo of Yerba Buena was established.

It having been adjudged by the Supreme Court of the State in several cases, as also by the Supreme Court of the United States, in at least one case, that a pueblo existed at the place where is now San Francisco, previous to the cession of the country by Mexico to the United States; and, that such pueblo had some sort of a right or title to lands, it, of course, is closed to us now to look behind such determinations. What that right or title was, at the time of the decision referred to, is a most important matter to be solved.

It can safely be assumed, that if such title was absolute and complete to any specified tract of land, at the time of the cession to the United States, neither action of the latter Government, under the law of 3d March, 1851, and other laws in aid thereof, nor any Congressional grant of the lands to be disposed of under such laws, could add to or take anything from such title.

Perfect titles to lands, whether in individuals or corporations, derived from any former sovereign proprietor of the country, could not, of course, legally be changed or affected as to proprietorship by any action of the Government of the United States, whether attempted to be accomplished through decrees of tribunals for that purpose created, or through Con-

gressional enactments. The Government could only rightly act upon and effect the tenure or title to lands which had not passed into private proprietorship before the cession. Its action, in whatever form exerted, could only legally affect such lands the property in which, united to the power of disposition, remained at the date of the cession in the government of Mexico, and was thereby in condition to pass to the United States, as its successor in proprietorship and power of control.

At that date, where, then, were vested as to the lands in question, this proprietorship and power of control? Through laws established under Spanish rulers, and recognized by the Mexican Government as operative in California in 1834, the Supreme Court of this State has adjudged that San Francisco was, on the seventh day of July, 1846, and prior to that date, a pueblo, entitled to and possessing all the rights which such Spanish laws, recognized by Mexico as in force, conferred upon municipal corporations; that such pueblo had a certain right or title to the lands within its general limits, and that the portions of such lands which had not been set apart or dedicated to common use or to special purposes, could be granted in lots by its municipal officers to private persons in full ownership; and that the authority to grant such lands was vested in the Ayuntamiento and Alcaldes, or other officers who at that time represented it, or who had succeeded to its powers and obligations. It has however been at no time adjudged by the Supreme Court of this State, with any degree of definiteness whatever, in what such right and title consisted, and therein have risen much confusion and contrariety of views amongst persons claiming to be interested. The nearest approach to precision on the subject, by that tribunal, is found in Hart vs. Burnett, 15 Cal. R., p. 542, where it was declared that, "It follows, from what "has been already stated, that when, near the close of 1834, "a municipality was erected at the Presidio of San Francisco, "by orders of the Governor and Territorial Deputation of Cali-"fornia, and that place was officially recognized as a pueblo, "and its organization completed by the election of municipal "officers, provided for by law, such pueblo became ipso facto "vested with some right or title to four square leagues of land, "measured either in a square or prolonged form, from the Pre-"sidio Square as a general central point; excepting so much of "the space within such general limits as might not be susceptible "of granting on account of its being water, the private property "of individuals or corporations, or lands dedicated to or re-"served for other purposes."

Again on page 543, "It appears, from official maps "made under the direction of the United States Surveyor-General "and the Superintendent of the U. S. Coast Survey that the old "Presidio of San Francisco was situated near the middle of the "northern extremity of the peninsula formed by the ocean and "the bay of that name; that the width of the peninsula, as far "south as the Mission creek, is less than two leagues, and that "still further south to the Sanchez rancho the average width is "about two leagues, although two or three points, as Lobos and "Devisadero, project somewhat beyond these points, very nearly "corresponding with indentations, as Mission Bay and Merced "Lake, on the opposite sides. Of course the pueblo could ac-"quire no right or title to the ocean or bay, and consequently, "according to the law of its foundation, the four square "leagues would be taken in a prolonged instead of a square "form." Unfortunately all this in no way characterized or defined in what such right or title consisted. But the Court proceeded, in the same case, page 549, to say: "If the Governors

"of California have granted lands within the general limits of "pueblos, it will be presumed, unless the contrary be shown, "that such grants were made in accordance with the objects and "uses for which such lands have been assigned and dedicated by "the laws to the pueblos. The whole matter was subject to the "control and direction of the Governor and Territorial Deputa-"tion, and the official acts of such officers, within the gen-"eral scope of their powers, are presumed to have been done by "lawful authority."

The Circuit Court of the United States for California, Justice Field presiding, in the opinion confirming the claim of the city, filed October 31st, 1864, on the same subject declared:

"It is difficult to determine with precision the "exact character of the right or title held by pueblos to the "lands assigned to them. The Government undoubtedly retained "a right to control their use and disposition, and to appro-"priate them to public uses, until they had been vested in pri-"vate proprietorship. Numerous laws have been cited to show "that the title remained absolutely in the Government."

These words "right and title" are used in a very general and indefinite sense, but in the admissions made that the whole matter of the alienation and disposition of lands claimed by pueblos was subject to the direction and control of the Governor and Territorial Deputation, IS found a most important in determining the character of the right or title of such pueblos in and to the lands within their limits. That only is such a right or title to land which unites, in the same person or corporation, the sole power to control its use and alineation, which can be deemed absolute, or one in fee.

A man or a corporation may be the sole owner of a tract of land as his or its absolute property, subject to his or its right of using, abusing, or doing what he or it will with it, without any present or future right in another to exercise any control over it. Or, he or it may have a right to a temporary use and enjoyment of land, while it remains undisposed of to another by him or it, in which is vested alike the authority to control the use and direct the instrumentalities of its alienation. This it will be readily perceived, is something distinct from the title by which such property is held, or the mode in which it may be acquired. The property or interest which one has in lands is properly expressed by the word estate, and the extent or degree of this interest is indicated by the terms by which different estates are designated. Thus an estate in fee simple conveys at once the idea of an interest of an unlimited duration; without any words of explanation. It is the largest possible estate which can be holden in lands, being as it is an absolute estate in perpetuity, and one of its most important incidents is the right of free and unlimited alienation.

The nature of pueblo rights to land can be properly understood only by correctly comprehending the purposes for which they were created, and the powers vested in the pueblo authorities touching them. As we understand the subject, such rights and powers were substantially as follows: Under the laws of Spain, where ten or more families desired to establish themselves as villagers on the public domain, where lands were found in sufficient quantity to warrant the starting of a village or town, it was usual for such families to go and settle themselves.

This was sometimes done with the previous knowledge of the governmental officials, and at other times without it. After notification to the rightful authorities of the country of such establishment, it was expected that the latter would cause to be laid or marked off: 1st. A suitable portion of lands to be divided into and for use as house lots. 2nd. An appropriate quantity and quality for sowing or planting lots or grounds for such of the villagers as might want and apply for them. 3d. Other lands for town uses, for public buildings, and lots to be rented, wherewith to obtain municipal revenue. 4th. A reasonable quantity immediately outside of the place intended for buildings, etc., to be used by the people in common as pleasure grounds, and other purposes. And 5th. Outside of and beyond the four kinds of land first named, a still larger quantity, intended for common use by all the inhabitants of the town or village for purposes of pasture. This latter portion in most pueblos comprised the larger part of all the lands within the limits of four square leagues, which it was thought desirable to mark out for the use of the inhabitants of towns or pueblos who might desire to thus become established on the public lands. The system did not contemplate, because not necessary to accomplish its objects, that the fee, or absolute title, to any part of the four square leagues should ever be vested (sic) in the pueblo or town in its municipal or corporate character, but, it was intended by the laws on that subject, that the proper authorities of the town should be clothed with the power, in the nature of an agency from the sovereign power of the country, on proper application to be made by such of the inhabitants of the town as wanted them, to grant house lots as well as sowing or planting lots, within the proper limits, in private proprietorship, if such applicants should be found to be suitable persons and in need of what was solicited. Like powers of alienation were also retained and often exercised, over the granting of house lots and planting grounds, by the national sovereign, and by such others to whom he chose to delegate the authority. These powers were exercised co-ordinately between them, but most generally by the municipal officers. All grants of house lots and sowing lots, and no other could be made by the pueblo authorities, were directed to be made in the name of the national sovereign, and this demonstrates where the fee was deemed to be lodged before any grant of pueblo lands were made. (See Subdivision 18 of Plan of Pitic, and Sec. 6 of Regulations of Governor Neve for California in 1779.) Power, however, to alienate either the lands designed for municipal revenue, or the pleasure grounds of the town, or the commons for pasturage by its inhabitants, never was confirmed on the authorities of the pueblo; and whenever grants of any of the latter three kinds of lands were made within the limits of pueblos, (and they were of rare occurrence and only intended to be in harmony with the interests of the town), they could be and only were effectual when made by the sovereign proprietor, or such of its officers as were clothed with power to alienate portions of the public domain, If, at any time after the settlement and establishment of a pueblo, it was found necessary to lay off a larger amount than was originally designed for either house lots, sowing lots, revenue purposes, pleasure grounds, or commons for pasturage, the power to make such changes and enlargements alone appertained to officers exercising authority; and it was always recognized as competent for the sovereign, under the pueblo system, whenever it became apparent that any of the lands within the limits of a pueblo, not granted or passed into private proprietorship, were no longer necessary for the uses to which they were designated and intended, they could be, and when thought proper were, granted away by the sovereign proprietor for other and different

purposes.

Under the same system, where pueblos were established on the public lands, and the designation of the different parts for town uses was delayed by the rightful national or territorial officers, as was the case at Yerba Buena, still the pueblo authorities often assumed and exercised the power to grant house lots in anticipation of their rightful powers in that behalf, which by the laws they would only become legally invested with after the legitimate demarcation of lands should be made for town uses. Such acts of attempted alienation, by way of grants made by the local officers of the town, it is presumed were treated and recognized as confirmed by the rightful public authorities of the nation, upon the separation of the proper town lands from the public domain. Justice Field, in the opinion before quoted from, when speaking of the extent of the lands in which the pueblo of Yerba Buena was interested says, "it is not pretended that such lands were ever marked off and surveyed by competent authority;" and further, that "the question presented must therefore be determined by the laws of Mexico at the date of the conquest."

From all this it manifestly results, that the absolute title, or fee, with the exclusive power of alienation, in and to all the ungranted lands embraced within the claimed limits of the pueblo of Yerba Buena, immediately previous to the treaty of cession of May 30, 1848, remained and was in the Mexican nation. Its rightful successor in that behalf, after such treaty, became and was the United States, because the latter succeeded alike to the national sovereignty in California as also to the fee of all lands therein, together with the power of disposition, which were at that date vested in its predecessor. Whatever equities subsisted in individuals or corporations in and to any part of such lands, so holden in fee by Mexico, and to which the United States succeeded, the latter, of course, became immediately charged therewith, as was the power whence the cession came. Such equities became no stronger against the United States than they were against Mexico; and, the United States had no greater obligation resting upon them, either in favor of individuals or town, than had Mexico. What these rights were under the Pueblo system, against the national government previous to the cession, and the relations they sustained to each other as to what are called the pueblo lands, we have already seen. Undoubtedly, there was a duty on the part of the new government to recognize and validate the grants made for house lots by the rightful authorities of the town in Yerba Buena, made previous to the cession of the country by Mexico. That duty was amply performed by the United States through the rule of evidence furnished against itself, and in favor of the grantees of such lots, by Section 14, of the Act of March 3d, 1851, for the settlement of private land claims in California. That section expressly provided that no claim need be presented to the Board of Land Commissioners, by any individual claimant, to any city, town, or village lot, which city, town or village existed on the 7th day of July, 1846, but that the claim for and embracing all such lots, held under a grant from any corporation or town to which lands may have been granted for the establishment of a town by the Spanish or Mexican government, should be presented by the corporate authorities of such town, and declared that the fact of the existence of such city, town or village July 7th, 1846, being duly proved, should be prima facie evidence of a grant to such corporation. Whether it was intended by that section that towns should present to the Board claims for more land than had been granted by the authorities

thereof to private individuals, previous to the passage of the Act, including the streets and plazas, may well be doubted. Such limited construction would seem to fully accomplish the fulfilment of all the duty in that respect incumbent on the United States. As a fact, however, the city, as a successor of the old pueblo of Yerba Buena, asserted in its petition to the Board of Land Commissioners, a claim to a great many thousand acres, of land, while the grants made by the town at that date were limited to a few hundred acres. After confirmation to the city, by the Board of Land Commissioners, and while the same stood on appeal to the United States District Court, Congress by an Act of July 1st, 1864, recognized and affirmed the Van Ness Ordinance, so called, and thereby relinquished to the city, for the use of the several town grantees, their heirs and assigns, the lots theretofore granted by the town authorities, and also to the actual bona fide successors, their heirs and assigns, the lands actually possessed by them on the first day of January, 1855, and of which they continued in possession up to June 20th of the same year. Afterward, the determination of the appeal, then pending in said District Court, having been transferred to the U. S. Circuit Court, the latter, by its decree of May 18th, 1865, confirmed to the city, in trust for the use of its inhabitants, the four square leagues claimed by the city, excepting out therefrom reservations previously made by the United States for its public uses. That decree was not final; it did not operate to pass the fee of the lands out of the United States. Such fee, under the laws through which the decree was made, could only pass out of the United States after it should become final, and after the issuance of a patent, pursuant to the laws in that behalf provided. The decree, so obtained was appealed from to the Supreme Court of the United States, and the effect of such appeal, until final action thereon in the Supreme Court of the United States, worked a suspension of all further proceedings toward obtaining a patent under it. In the meantime, and while such appeal was pending, the Congress of the United States, on the 8th day of March, 1866, in an Act, entitled "An Act to quiet the title to certain lands within the corporate limits of the City of San Francisco", enacted, "That all "right and title of the United States to the lands situated "within the corporate limits of the City of San Francisco, in "the State of California, confirmed to the City of San Fran-"cisco, by the decree of the Circuit Court of the United States, "for the Northern District of California, entered on the 18th "day of May, 1865, be, and the same are, hereby relinquished "and granted to the said City of San Francisco and its succes-"sors, and the claim of the said city to said lands is hereby "confirmed, subject, however, to the reservations and excep-"tions designated in said decree, and upon the following trusts, "namely; that all the said land not heretofore granted to said "city, shall be disposed of and conveyed by said city to parties "in the bona fide actual possession thereof, by themselves or "tenants, on the passage of this Act, in such quantities and upon such terms and conditions as the Legislature of the State "of California may prescribe, except such parcels thereof as "may be reserved and set apart by ordinance of said city, for "public uses; provided, however, that the relinquishment and "grant by this Act, shall not interfere with, or prejudice any "valid adverse right or claim, if such exist to said land, or "any part thereof, whether derived from Spain, Mexico, or the "United States; or preclude a judicial examination and adjust-"ment thereof."

By this Act of Congress, and the previous one of July 1st, 1864, the Government of the United States, by words

of present grant and relinquishment, was divested of the legal title to all the lands in question, so derived, as before shown, from Mexico; and, the same thereafter became invested in the manner and upon the trusts in said Acts provided. In virtue of them, on their passage, all the right, title and interest of the United States passed to the city, for the use and upon the trusts in each respectively named. No further action by the Government or its officers, in such case was necessary to pass the title, since such Congressional grants passed it as completely as could a United States patent.

The "right or title" which the town of Yerba Buena had to lands, and to which the city succeeded, is simply what has been herein before defined, and also a perpetual usufruct in and to the streets, public squares and other places reserved for and dedicated to public uses.

The title to such lands in the town is in the nature of one founded on prescription, and the right to regulate the use as to such, after the treaty of cession, did not devolve on the United States, but on the Legislature of the State formed out of California. In the case of New Orleans vs. the United States, 10th Pet. 662, the public quay, which was the subject of the suit, belonged to the city through dedication to public uses long before the treaty of cession of 1803. The right of individuals, in and to commons, adjacent to towns in Missouri, came, as in the case here, through Acts of Congress, -- Strother vs. Lucas, 12th Pet. 410.

As we understand it, and as is thought is demonstrated by the foregoing, the legal title to the lands embraced within the four square leagues confirmed to the city by the decree of the Circuit Court of the United States for California, May 18, 1865, and made final and effective to divest proprietorship out of the United States by the Congressional grants of July 1, 1864, and March 8, 1866, (except reservations made for the use of the United States, streets, public squares and other portions reserved and to be reserved by the city for its public uses,) is now vested as follows:

1st. As to lands granted by the rightful authorities of the old town, whether Mexican or American, the title is vested in the grantees thereof, and their heirs and assigns.

2d. As to those lands claimed through grants made by Governors of California, the title is vested through patents in the claimants thereof, their heirs and assigns, which patents were obtained through proceedings had under the act of Congress of March 3d, 1851, and other acts supplementary thereto.

3d. As to the lands not granted by the town authorities, being inside of the Van Ness Ordinance, the title is vested in the parties who were in the actual possession of them, by themselves or tenants, and their heirs and assigns, at the times in said ordinance named.

4th. As to the lands commonly called outside lands, except reservations made for the use of the United States, the title is vested in the City of San Francisco, in trust, to be disposed of and conveyed by said city to parties and their heirs and assigns, who were in the bona fide actual possession thereof, by themselves or tenants, on the 8th day of March, 1866, in such quantities and upon such terms and conditions as the Legis-

lature of California may prescribe, except such parcels as may be reserved and set apart by ordinance of said city for public uses.

Having reached the foregoing conclusions through a series of principles of law believed to be applicable to the facts stated in the complaint, and which principles, it is thought, will be found, on careful examination, to be sustained by binding authority, it only remains to say that the acts complained of against defendants were but in the line of their duty, and the demurrer is, therefore, sustained.

O. C. Pratt, Judge.

(Printed by B. F. Sterett, No. 533 Clay Street, just below Montgomery, 1807.)

ELECTION OF COMMITTEE ON OUTSIDE LANDS.

(January 29, 1868.)

Board of Supervisors.

The regular weekly meeting of the Board was held last evening. Present: Harold (sic) Flaherty, Cole, Ashbury, Clayton, Cavallier, Shrader, Nunan, Canavan, Stanyan and Mayor McCoppin in the Chair.

Outside Land Committee:

Mr. Stanyan, chairman of the Outside Land Committee, stated that at a former meeting Order No. 800 was passed, changing the committee by increasing the number to five. He would therefore resign his position as a member of the committee, and would move a suspension of the rule, and that the Board to into an election of a new committee. Carried.

Messrs. Cole and Shrader for the same reasons also resigned from the Committee.

The Board then went into an election, with the following result:

On the first ballot Messrs. Stanyan, Cole and Shrader received ten votes each, and were declared elected.

On the third ballot Mr. Ashbury was also elected.

On the thirteenth ballot Mayor McCoppin moved that further balloting be postponed one week. It was so ordered by a vote of seven to three.

(The Times, Jan. 21, 1868, Vol. 3, No. 64, p. 1, col. 2.)

ELECTION OF COMMITTEE ON OUTSIDE LANDS.

(January 27, 1868.)

Board of Supervisors.

A meeting of the Board was held last evening. Present: Harold (sic) Flaherty, Cole, Ashbury, Cavalier (sic) Shrader, Nunan, Canavan and Stanyan, Mayor McCoppin in the Chair.

Outside Land Committee:

Mr. Stanyan moved a suspension of the rules and that the Board go into an election to fill the Outside Land Committee.

On the first ballot Mr. Nunan received five votes and Mr. Clayton received four.

On the ninth ballot Mr. Clayton was elected by seven votes, Mr. Nunan receiving two votes.

After some debate, it was decided to permit the committee to designate their own chairman.

(The Times, Jan. 28, 1868, Vol. 3, No. 70, p. 1, col. 3.)

RESOLUTION No. 7925, AUTHORIZING COMMITTEE TO ENGAGE HORSES.

(February 3, 1868.)

Board of Supervisors.

The regular weekly meeting of the Board was held last evening. Present: Supervisors Harold, Flaherty, Ashbury, Clayton, Cavallier, Shrader, Nunan, Canavan, Stanyan and Mayor McCoppin in the Chair.

Resolutions adopted:

Authorizing the Outside Land Committee to employ vehicles and horses in making selections for city reservations.

(The Times, Feb. 4, 1868, Vol. 3, No. 76, p. 1, col. 2.)

ARGUMENT OF FRANK TILFORD, DELIVERED BEFORE THE JUDICIARY COMMITTEE OF THE ASSEMBLY, AT SACRAMENTO, MARCH 9th, 1868, ON THE SUBJECT OF THE SAN FRANCISCO "OUTSIDE LANDS."

MR. Chairman, and Gentlemen of the Committee:

The Board of Supervisors of the City and County of San Francisco has applied to the Legislature for the confirmation of a certain municipal regulation, entitled:

"Order No. 800
An Order for the Settlement and Quieting Title to land in the City and County of San Francisco and the Pacific Ocean, and without the corporate limits of the City and County of San Francisco."

An examination of the official map of the City and County of San Francisco, on which is delineated the Charter lines as defined by an Act of the Legislature of April 15, 1851, will show the situation and extent of the land referred to in the title of the ordinance. It may be stated generally that the area described in the Order contains about five thousand, five hundred acres, not included in reservations made by the United States Government. Of this amount about three thousand acres are dedicated for streets, plazas, a cemetery, park and other public uses, leaving some twenty-five hundred acres to be disposed of and conveyed to parties in the actual bona fide possession thereof, as stated in said ordinance.

It is conceded that the order for which a ratification is asked has met with considerable opposition, no more, rather less, however, than might have been expected. History teaches that all measures, whether of a municipal or legislative character, which conflict with the ignorance, the prejudices and the interests, real or imaginery, or a multitude of people, are destined to encounter opposition at every stage of their passage. But in this chamber a different and wiser spirit prevails. The enlightened judgment of the Committee, uninfluenced by the clamors of prejudice, or ignorance, and intent solely on the ascertainment of truth, will, I am well assured, examine the subject under consideration patiently, candidly and intelligently.

It is proper, Mr. Chairman, that the Committee should have a clear understanding of the provisions of the Order which the Legislature is asked to confirm. Sections one and two read as follows:

"Section 1. Immediately after the passage of this Order, the Board of Supervisors shall proceed to devise and adopt a plan for the subdivision into blocks and lots of all the lands not reserved to the United States, situated on the Peninsula of San Francisco and within the present corporate limits of said city and county, and above the natural ordinary high water mark of the Bay of San Francisco and the Pacific Ocean, as the same existed on the seventh day of July, eighteen hundred and forty-six, and without the corporate limits of the City of San Francisco, as defined in the act to incorporate the said city, passed by the Legislature of California on the fifteenth day of April, eighteen hundred and fifty-one

so far as said Board may deem such subdivision necessary and to select and set apart for public uses such lots and portions of said land as said Board may deem necessary, subject to the limitations and provisions hereinafter in this Order contained."

"Sec. 2. After the adoption of the plan provided for in Section one of this Order, the Board of Supervisors shall cause to be made a map of said lands, according to said plan. Such map shall show the streets and public highways, the blocks formed by the intersection of the streets and public highways, and the lots into which said blocks shall be subdivided; and upon such map shall be designated the lots and portions of land set apart for public uses, and the particular use for which each lot or portion of land shall have been set apart."

Sections six and seven provide that -

"Sec. 6. As soon as the alterations provided for in Section five of this Order shall have been made and delineated on said map, the said map shall become and be the official map of said lands; and the portions of land thereon designated as public streets and highways, and the tract or portion of land set apart and designated on said map as a public park, and the tract or portion of land set apart and designated thereon as a cemetery, and lots for a hospital, city hall, county jail, public school, fire department, city library, or other public purposes, shall be deemed absolutely as such.

Sec. 7. No lot set apart for public use, other than for a park, plaza, cemetery, or public square, or for the erection thereon of a city hall, or building for a city library, hospital, county jail, or an asylum, shall exceed in extent two fifty vara lots and no tract or portion of land set apart for a plaza or public square shall exceed in extent four whole blocks formed by the intersection of the main streets of the plan, and the tract or portion of land set apart for a cemetery shall not be less in extent than two hundred acres; and the tract or portion of land set apart for a public park shall not be less than one thousand acres.

Sec. 11.reads as follows:

" Sec. 11. Upon the payment to the Treasurer of the City and County of San Francisco of the amount assessed by the Committee, provided for in Section 13 of this Order, upon the lands as provided for in Section 10 of this Order, the City and County hereby relinquishes and grants all the right, title and claim which the said City and County now has or may hereafter acquire as the successor of the Pueblo of San Francisco or as the grantee or patentee of the United States in and to the lands hereinbefore in this Order described, and not excepted or reserved, or intended to be excepted or reserved by any of the preceding sections or provisions of this Order and which may not be set apart for public use under any of the preceding sections and provisions, and upon which shall be paid, previous to the first day of April, 1868, all taxes which have been assessed thereon during the five fiscal years preceding the year beginning July 1, 1866, unto the person, or to the heirs and assigns of persons who were, on the 8th day of March, 1866, in the actual bona fide possession thereof by themselves or their tenants, or having been ousted from such possession before or since said day, have recovered or may recover the same by legal process, and it is hereby declared to be the intent and object of this section to pass the right, title and claim of the said City and County in and to every tract or portion of said land delineated on said map, except the portions that are or may be reserved as aforesaid, possessed by one person unto the possessor thereof in severalty; and every separate tract or portion thereof, except the portions that are or may be reserved as aforesaid, possessed by more than one person, jointly or in common, unto the possessors thereof, jointly or in common."

Section 19 provides:

"Sec. 19. This order is subject in all its parts to ratification by the Legislature, for which application shall be made by the Board of Supervisors."

The remaining sections, although important, refers to details, and are left unread to be examined by the Committee ona more opportune occasion.

As section eleven of the Order declares that "the City and County of San Francisco hereby relinquishes and grants all the right, title and claim of which the said City and County now has, or may xx hereafter acquire as the successor of the Pueblocof San Francisco, or as the grantee or patentee of the United States, in and to the lands hereinbefore in the Order described, "upon certain specified terms" unto the person or the heirs and assigns of persons who were on the 8th of March, 1865, in the actual bona fide possession thereof, by themselves or tenants, "it becomes necessary to ascertain the precise nature and extent of the estate which the City and County had in these so-called "outside lands" at the date of the passage of the Order, namely, 14th January, 1868.

The determination of this point also involves an inquiry unto the right, title and claim of parties who were in the actual possession of said lands on the day mentioned in the Ordinance.

As a preliminary to the ascertainment of these points we must determine first, the proprietary rights of pueblos to lands, and especially what were the right and title to land under the Mexican Government of the Pueblo of San Francisco.

The term pueblo, in Spanish, corresponds almost exactly to the word "town" in our language.

As the latter word in English is applied generally to any species of municipality from a village to a metropolis, so the term pueblo, in Spanish, is used generally to denote every form of municipal government, from a hamlet to a city.

PUEBLO OF SAN FRANCISCO.

The germs of the pueblo system were, in all probability, introduced into Spain by the Visi Goths, in the fourth and fifth centuries, when they wrestel the country from the dominion of the Romans.

The rights of the pueblos, whatever their nature or extent, were not derived in California from grants made either by the Crown of Spain, or its successors in soverignty - the Mexican nation. They were founded on prescription. (Sic) Every pueblo had a general right of property over four leagues of land measured from the center of the main plaza of the settlement, in a square or oblong form, as the nature of the country might render advisable. Within the limits designated, the inhabitants of a pueblo had a perpetual usufruct in the streets, plazas and other places dedicated for public uses, and its officers, acting as the agents of the Government, had a qualified and restricted power of alienating some portions of the land. The pueblo lands were generally divided and classified as follows:

First the Propios, or such lots, houses and other property as were rented, and the proceeds applied to defray municipal expenses.

Second. Solares, or building lots, fronting on the streets and plazas of the town site proper.

Third, the Ejidos, or vacant suburbs, corresponding to the word "commons" in English.

Fourth, the Suertes, on cultivable lots, near the town, and within the four leagues of the pueblo.

Fifth, the Dehasas, or great pasture grounds, over which the herds belonging to inhabitants of the pueblo grazed and ranged at large. (Vide Col. Hist. of S.F., 8-12.)

The municipal affairs of a pueblo, when fully and completely organized, were administered by an Ayuntamiento, composed of an Alcalde, Regidores, or Town Councilman, and a Procurados

Sindico, or Town Attorney. There were also other officials whose title and duties corresponded to those of our Justices of the Peace.

San Francisco, it is claimed by the learned author of the "Colonial History", already cited, was established as a Presidial Pueblo in 1776. In that year, by an order of the Marquis de Craix, Viceroy of New Spain, a presidio, fort and mission were founded on the peninsula, and near the Bay of San Francisco, and with them commenced the pueblo.

The Supreme Court of California has, however, held that a municipality was not enacted on the peninsula until eighteen hundred and thirty-four.

Whatever may have been the date or circumstances of its origin, San Francisco, or as it was frequently styled and generally known, "Yerba Buena", remained for many years a place of no political or commercial importance. It is difficult to find, at times, any traces of its existence.

In 1842, sixty-six years after the establishment of a presidio, the white population of Yerba Buena scattered along the beach and among the sand hills between the ocean and Mission Dolores, did not exceed one hundred and sixty.

It continued an obscure and insignificant village until the 7th of July, 1846, when the conquest of California by the American forces, transferred the sovereignty of the country from Mexico to the United States.

The Supreme Court of California having determined, in the case of "Hart v. Burnett, et al.," decided at the April term, 1860, that San Francisco was a pueblo prior to the date of the conquest and as such, had "a general right, for public purposes, to four square leagues of land, to be measured, according to the ordinanzas from the center of the plaza at the presidio," it becomes of the utmost importance to ascertain, if we can, the exact right which it had to the pueblo lands. It will be admitted, without argument, that the City and County of San Francisco is the legal successor to the ancient pueblo.

In whom is vested the title of the Pueblo Lands, including the land mentioned in Order No. 800; by whom can it be conveyed, and in what manner?

My answer is that the legal title is in the City and County of San Francisco, subject however, to the trusts created by the Act of Congress of March 8, 1868. Furthermore that said lands can be disposed of and conveyed by the Board of Supervisors of the said City and County only to the parties in the bona fide actual possession thereof, by themselves or tenants, on the 8th day of March, 1866, in such quantities and upon such terms and conditions as the Legislature of the State of California may prescribe. The Act of Congress reads as follows:

"That all the right and title of the United States to the lands situated within the corporate limits of the City of San Francisco, in the State of California, confined to the City of San Francisco, by the decree of the Circuit Court of the United States, for the Northern District of California, entered on the 18th day of May, 1865, be, and the same are, hereby, relinquished and granted to the said city of San Francisco and its successors, and the claim of the said city to said land is hereby confirmed, subject, however, to the reservation and exceptions designated in said decree, and upon the following trusts, namely: that all the said land not heretofore granted to said city shall be disposed of and conveyed by said city to parties in the bona fide actual possession thereof, by themselves or tenants, on the passage of this act, in such quantities and upon such terms and conditions as the Legislature of the State of California may prescribe, except such parcels thereof as may be reserved and set apart by ordinance of said City, for pueblo uses; provided, however, that the re-

linquishment and grant by this act shall not interfere with, or prejudice any valid adverse right or claim, if such exist, to said land, or any part thereof, whether derived from Spain, Mexico or the United States; or preclude a judicial examination and adjustment thereof."

As the Act grants "all the right and title of the United States" it becomes necessary to inquire what was the nature and what the extent of that right and title.

If, at the date of the cession of California to the United States, the pueblo had a complete and absolute title, a fee simple, to the lands in question, then no law of the United States nor Congressional grant, could add to, impair or detract from such title.

The case is thus forcibly and clearly stated by Judge Pratt of the 12th Judicial District:

"Perfect titles to lands, whether in individuals or corporations, derived from any former sovereign, proprietor of the country, could not, of course, legally be changed or affected as to proprietorship by any action of the Government of the United States whether attempted to be accomplished through decrees of tribunals for that purpose created, or through Congressional enactments, The Government could only rightfully act upon and effect the tenure or title of lands which had not passed into private proprietorship before the cession. Its action, in whatever form exerted, could only legally affect such lands, the property in which, united to the power of disposition, remained at the date of the cession in the Government of Mexico, and was thereby in condicion to pass, and did pass to the United States, as its successor in proprietorship and power of control." (Page 3, Pub.Rep. W.W.Johnson, et al v. Bd. Sup's of City and County of San Francisco.)

It is assumed by certain parties whose zeal exceeds their knowledge, that the Supreme Court of California has decided that a fee simple to these lands was vested in the pueblo, and that Judge Field, in his opinion rendered in the Circuit Court of the United States, in the case of the City of San Francisco v. The United States, expressed the same or similar views. On reference to the opinion of the Supreme Court in the Hart v. Burnett case, we find the following language:

"If the Governors of California have granted lands within the general limits of pueblos, it will be presumed, unless the contrary be shown, that such grants were made in accordance with the objects and uses for which such lands have been assigned and dedicated by the laws of the pueblos. The whole matter was subject to the control and direction of the Governor and Territorial Deputation, and the official acts of such officers, within the scope of their powers, was presumed to have been done by lawful authority." 15 Cal. 549.

The Supreme Court of California, in the case of "Brown v. San Francisco" says:

"Nor does it by any means follow that, because a particular tract of land, or some portion of it falls within the general limits of a pueblo, this pueblo has such a right or title to this land as to exempt it from the general operation of the granting powers of the Governor and Deputation. The whole view of our reasoning in Hart v. Burnett, et al, was opposed to this view of the character of pueblo titles." (16 Cal. 459.)

Further on the Court observes:

"The whole matter of granting lands within pueblo limits was subject to the control and direction of the Governor and Territorial Deputation, and the official acts of such officers, within the general scope of their powers, are presumed to have been done by lawful authority. " (16 Cal. p. 461).

The Circuit Court of the United States, Justice Field, presiding, in the opinion filed October 31, 1864, in the case of "The City of San Francisco v. The United States," says:

"It is difficult to determine with precision the exact character of the right or title held by pueblos to the lands assigned to them. The Government undoubtedly retained a right to control their use and disposition and to appropriate them to public uses until they had been vested in private proprietorship. Numerous laws have been cited that the title remained absolutely in the Government."

Judge Pratt, in the case cited, commenting on the admission made by these Courts, very forcibly and truly observes:

"These words 'right or title' are used in a very general and indefinite sense, but in the admissions made that the whole matter of the alienation and disposition of land claimed by pueblos was subject to the direction and control of the Governor and Territorial Deputation, is found a most important element in determining the character of the right or title of such pueblos in and to the lands within their limits. That only is such a right or title to land which it unites in the same person or corporation, the sole power to control its use and alienation, which can be deemed absolute, or one in fee." (Johnson, et al. v. Bd. Sup. City and County of S. Francisco, Pub. Rep. 11.)

While then no State or Federal Tribunal has decided that the pueblo had any right to the use, control and alienation of the lands in question, amounting to the dignity of a title in fee, there is abundant judicial authority tending to prove that the absolute and complete title to the so-called pueblo lands, was vested in Mexico, and by cession of California was transferred to the United States.

Messrs. Thompson and Farwell, a majority of the Board of Land Commission, organized under the Act of 1851, in their opinion confirming the city's claim, say:

"That under the laws of Spain and Mexico no right of property in lands assigned to pueblos or towns was ever vested in these corporations, by which they could alienate or dispose of them in any manner; but such assignment only conferred a right to use and occupy them in the manner prescribed by the laws under the direction of the superior authorities," and "that the right to alienate or dispose of such lands, whenever exercised by the municipal authorities, was by virtue of powers specially delegated to them for the purpose by the king or nation in the same manner as the authority to dispose of other portions of the public domain was conferred or other functionaries specially charged with the subject." (See Col. History, 147).

The Supreme Court of the United States, in the case of Townsend, et al., v. Greely, decided at the December term, 1866, says:

"It may be difficult to state with precision the exact nature of the right, or title which the pueblo held in these lands. It was not an indefeasible estate; ownership of the lands in the pueblos could not in strictness be affirmed. It amounted in truth to little more than a restricted and qualified right to alienate portions of the land to its inhabitants for building or cultivation, and to use the remainder for commons, for pasture lands, or as a

source of revenue or for other public purposes."

In confirmation of the view taken by the Supreme Court of the United States, is the fact that of eighty-four grants made by Justices of the Peace and Alcaldes, in San Francisco or Yerba Buena, from January 2, 1836, to June 20, 1846, all were to inhabitants and of building or cultivable lots - Solares or Suertes. See Col. Hist. 113, 114.

Leaving the field of judicial decision and seeking information from other sources, we shall find that a marked and invariable characteristic of the tenure by which a Spanish or Mexican pueblo held its common lands, was a power of abenation, always claimed and often exercised by the Supreme Government.

In corroboration I submit an extract from a brief of Mr. Hawes, filed in the City's case:

"But this common use and servitude created by these general laws and sustained during so many ages, did not restrict the Sovereign's full and absolute property in these common lands of consejos or pueblos, which in the demarcation of limits, might be comprehended in this terminos, nor impair his right freely to dispose thereof, 'for' says Elegondo, 'the King's fountains of jurisdiction are the owners (duenos) of all the terminos situated in their kingdoms, and as such can donate them, divide or restrict them, the same being true of their pastos, although the pueblos enjoy them, it being presumed that they are conceded only so far as respects their use and administration, the property remaining in the Sovereigns themselves, so that they may limit them afterwards enlarge or restrict them, or give any new form to the enjoyment (goze) thereof." Practice Universal, V. 3, p. 107.

From all this we may conclude that the only estate which the towns had in their hands was a tenacy at will, which could be determined in whole or as to a part at the pleasure of the Supreme Government in whom was vested the complete and absolute control and ownership of the property,

When Philip 1, under the pressure of his necessities, promised his subjects that he would thereafter abstain from alienating such common lands as the pueblos had used for propios, he disclosed the important fact that he and the monarchs who preceded him had been in the practice of selling the common lands of the pueblos.

In 1813 the Cortes of Spain, in a session at which Mexico was represented, decreed that all the lands of the pueblos, not only in Spain but in the Provinces beyond the seas, should be sold or granted to private owners. See printed brief of plaintiff8s counsel in case of Tonchard v. City and County of San Francisco, in U.S.Circuit Court; also Col. Hist. p. 39.

From 1834 until 1846 the Governors of California granted to individuals not only town lots in Yerba Buena but ranches of a league or a league and a half in extent within the four leagues of the Presidio.

Of the former character were the grants made to Leese and Salvador Vallejo, and of the latter the grants to Galindo, Bernal and Noe.

It is a remarkable, and, for the purposes of this argument, a most significant fact, that all these grants, whether made by Governors, Prefects, Alcaldes or Justices of the Peace, were in the name and by the authority of the Supreme Government of Mexico.

If the ownership in such lands was vested, as has been contested, in the pueblo, why was a grant never made in its name?

In confirmation of the position taken, we have

The Action of the Several Departments of the United States Government.

1. During the administration of Fillmore, we find orders from the President extending, in point of time, from November

7, 1850, unto December 31, 1851, making reservations of the so-called pueblo lands for Governmental purposes.

2. The Congress of the United States, by Acts of July 1, 1864, and March 8, 1866, ceded the right, title and interest of the United States in and to landssituate in the City of San Francisco, to that city, upon the conditions and for the trusts terein mentioned. If the United States had no title or interest to cede, such Acts were vain, idle and superfluous legislation.

3. The Circuit Court of the United States for the District of California, Justice Field presiding, in the decree confirming the city's title, filed May 1865, excerpts from the confirmation "such parcels of land as have heretofore been reserved or dedicated to public uses by the United States."

The authorities cited and the proofs adduced must carry our minds irristably to the conclusion stated by Judge Pratt in the case already mentioned. He says:

4th. As to the lands commonly called outside lands, except reservations made for the use of the United States, the title is vested in the City of San Francisco, in trust, to be disposed of and conveyed by said city to parties and their heirs and assigns, who were in the bona fide actual possession thereof, by themselves or tenants, on the 8th day of March, 1866, in such quantities and upon such terms and conditions as the Legislature of California may prescribe, except such parcels as may be reserved and set apart by ordinance of said city for public uses."

Against this array of proof and precedent we are told t that the Circuit Court of the United States has adjudged these lands to the city, "in trust for its inhabitants". Assuming that the decree was all that is contended for - what then? It was appealed and the effect of that appeal is thus clearly stated by the Judge of the 12th Judicial District.

That decree was not final; it did not operate to pass the fee of the lands out of the United States. Such fee, under the laws through which the decree was made, could only pass out of the United States after it should become final, and after the issuance of a patent, pursuant to the laws in that behalf provided. The decree so obtained was appealed from to the Supreme Court of the United States, and the effect of such appeal, until final action thereon in the Supreme Court of the United States, worked a suspension of all further proceedings toward obtaining a patent under it." In the meantime, and while such appeal was pending, the Congress of the United States, on the 8th day of March, 1866, in an Act entitled "An Act to quiet title to certain lands within the corporate limits of the City and County of San Francisco," disposed of the whole subject in controversy.

The Duty of the Legislature.

If the views I have advanced are correct, the duty of the Legislature is manifest, and its course plain. It must ratify Order No. 800 and thus give effect to the wise and beneficient purposes of the Congress of the United States. No other course, consistent with justice or public policy, is left for it to pursue. Bear in mind, Mr. Chairman, that under the Act of March 8th, 1866, there are but two beneficiaries of the trust enacted - public use and the party in possession. The discretion granted to the Legislature is therefore limited - whatever is taken from one cestui que trust must necessarily be given to the other.

There is yet another viewnof the subject which is entitled to our serious consideration.

It is urged by some and among them by the learned author of the Colonial History, that "the title to the pueblo lands was vested in the corporate City and County of San Francisco subject to be disposed if by the Board of Supervisors, without any further authority from the Legislature of the State." (Col.Hist. p. 361 and 364.)

If the position thus taken shall be sustained by the Courts, the title of the occupants of the outside lands is already absolute and complete.

By virtue of order No. 733, approved October 12,1866, and by Order No. 800, which you are asked to confirm, the City and County has already relinquished all its right and title to these lands to the parties in actual possession thereof on the 8th of March 1866.

The provisions of Order No. 800, for which a ratification is asked are, in every material respect, more favorable to the public than the provisions of Order No. 733.

While the latter, for instance, dedicates three hundred acres for a Park, the former sets apart not less than one thousand acres for that purpose.

But the parties in possession of the lands are willing to forego whatever title they may have under the ordinances named provided they can obtain a legislative ratification of their claim. They want no litigation which can possibly be avoided; they desire to remove all clouds from their title and devote their means to the improvement of their estates rather than waste them in protracted and ruinous lawsuits.

Assume, however, that the persons now in possession of the outside lands are mere intruders with no legal rights or equities which the courts are bound to respect; consider, on the other hand, that the City and County of San Francisco is vested with the legal title in trust for thr inhabitants, then it certainly devolves on the Legislature to declare how that trust shall beexecuted and how the Board of Supervisors shall dispose of this property. It seems to me, in such a contingency, every dictate of sound policy demands a confirmation of Order No. 800. What disposition shall be made of these lands if the Legislature fails to ratify the ordinance in question? In the various schemes which have been discussed is a proposition to divide and distribute them among all the inhabitants of San Francisco. Under this arrangement the distributive share of each denizen would be a lot with less than six feet frontage - a space which in Jeddo or Pekin might pass for a homestead, but would hardly answer the requirements of the enterprising citizens of our commercial emporium.

Another plan is to sell the lands at public auction upon terms favorable to the purchasers. If such a method is adopted common honesty will demand a repayment of the taxes which have already been received from parties in possession, amounting to sixty or seventy thousand dollars. Who would be benefited by this arrangement? What prudent man would accept, as a gift, much less purchase for a valuable consideration, a lot in these outside lands, with the possession in another and with the certainty that before that adverse possession could be terminated years must be consumed in costly and vexatious litigation?

Speculators, who can afford to abide the"law's delay" and regard the hazards of litigation as legitimate risks would be the only purchasers at such a sale.

The sum received under this more of disposition would hardly exceed the taxes which would have to be returned, and for many years to come the extensive tract included in the limits outside of the old charter line of the city would remain a wild and uncultivated waste.

A confirmation of Order No. 800 will give a complete legal title to parties who are in actual possession and who, without the aid of further legislation, can hold their interests against all contestants.

The owners and occupants of these outside lands are, as a general rule, men of capital, or more than ordinary enterprise and well adquainted with the value and management of real estate in San Francisco. Give them a reasonable assurance, such as is

contained in the proposed Act, of exemption from ruinous litigation and the results will be alike beneficial and immediate.

Streets will be opened and planted, lots graded, sewers constructed, houses erected, other improvements made, and the whole of this expensive tract, now an unsightly wilderness, will become, in less than five years, not only a magnificent appendage to the City of San Francisco, but a fruitful source of revenue to the State and Municipality.

A serious misapprehension seems to prevail in many minds as to the present value of these lands. It has been assumed that they are immensely valuable, worth, it is said, millions of dollars, Such statements are entirely untrue, as far from the fact as are the dreams of a disordered mind from the realities of life.

With the exception of some portions just beyond the line of Devisadero (Sic) street, and a tract in the vicinity of the Mission, the ground affected by the Order we are considering, is a dreary and continuous expanse of savage country, rude and sterile at all seasons, but most repulsive when the summer winds sweep across it from the Pacific Ocean, carrying before them vast volumes and clouds of sand. Capital and enterprise with their combined power alone can reclaim it from the desolation which nature has spread over its hills and valleys. The legislation which prevents their beneficient application dooms the Outside Lands to remain an uncultivated waste, useless alike to their owners and the public.

Again, it is said that a few men whose only tenure is a ribbon fence seek to wrest from the Legislature a valid title. The answer is found in the fact that there are not less than three thousand persons, who, as owners of lots, will be beneficially affected by the proposed law - that a number of them have been paying taxes on those lots for the last fifteen years and finally, that no one can receive the least benefit from the Act, who was not in actual bona fide possession at the time specified in the Ordinance.

When all arguments against the justice and policy of the contemplated enactment are refuted, we are met with the assertion that it is repugnant to the wishes of a large majority of the people of San Francisco. The reply to such an assertion is the fact that at (sic) different periods - in October, 1866, and January 1868 - the Supervisors of the City and County passed orders similar in design and character for the disposal of the outside lands. The first named, No. 733, was enacted by a vote of eight in the affirmative, and one in the negative, while the latter, No. 800, received a unanimous approval. The Mayor who sanctioned the former was a Republican, while in the latter case the Chief Executive of the City, who also gave the measure his official sanction, was and is an acknowledged leader of the San Francisco Democracy.

Another and conclusive answer to such statements is found in the fact that a majority of the San Francisco delegation presumed to understand and represent the wishes and views of their constituency, advocate the passage of this measure.

Mr. Chairman - In asking for a confirmation of the Order in question, we do not propose any novel, dangerous, or untried legislation. We simply ask the Representatives of the People to follow in the line of safe precedents, and adopt a cause which has been approved by the wisdom of experience. Ten years ago the Van Ness Ordinance came before the Legislature for confirmation. The very same objections that we hear now, were urged then against that measure. It became a Statute and was universally admitted to have been one of the most admirable and excellent laws ever enacted by a California Legislature. The progress which San Francisco has made within the last decade in population, wealth, and the development of its material resources, may be attributed, in no small degree, to the effect produced by the measure. It inspired confidence at home and abroad, among all classes, in the titles to San Francisco

real estate while it offered to capital a safe investment, it enabled the honest indistrial masses of the people to procure homesteads for their families, and repose in their possession with a feeling of absolute security. When that ordinance passed into a law there was hardly a highway opened beyond the line of Larkin or Johnston streets, and not a block of six fifty vara lots which would have sold for a thousand dollars. Sand hills and swamps, among which we interspersed a few cheerless cabins, were all that met the vision within the limits of what were then designated as Outside Lands. Not a tree was planted, a garden cultivated, or street improved. Not a dollar could be borrowed on land whose title rested solely on occupancy and the unfortunate occupant of acres, almost in the heart of the city limits, could scarcely find in their possession sufficient credit to procure for his family the necessaries of life.

The passage of the Act confirming the Van Ness Ordinance wrought a wondrous and immediate change. Improvements of every character commenced on the tract styled the Western Addition and have progressed with a rapidity without precedent in the history of modern civilization. Streets have been opened, hills leveled, marshes drained, and thousands of homsteads, the abodes of families, cultivated and improved by their prosperous and thriving owners. Blocks of six fifty vara lots unimproved have sold as high as $40,000. The value of the entire real estate in the Eleventh and Twelfth Wards of San Francisco may now be estimated at ten millions of dollars, yielding annually to the City and State three hundred thousand dollars. Before the Van Ness Ordinance became a law, this property was comparatively valueless almost useless to the owner, and certainly worthless to the State.

The character and situation of the lands included in the provisions of the Order we have been considering are analogous to those embraced within the scope of the Van Ness Ordinance. Every consideration of justice or public policy which induced the Legislature to confirm the latter will apply with equal force to the proposed enactment.

Two years ago the Legislature of California, impressed with the necessity of action in regard to these lands, passed under an Act similar in design to the one now pending in the Assembly. Unfortunately it failed to receive the Executive sanction and as a consequence we find the Outside Lands in the same situation which they were at that time.

If then, deference to the decisions of our highest legal tribunals, respect for the policy sanctioned by the Congress of the United States, considerations of public expediency, or the weight of legislative precedents can influence your decision, the friends and advocates of the bill under consideration are confident of a favorable report from the Committee, and of a confirmation of the Order under advisement, by the legislative department of the State.

(Sacramento; State Capital Reporter Print, J.Street, 1868, 17 pp. 8.00)

ACT CONFIRMING ORDINANCE NO.800.

AN ACT to confirm a certain Order passed by the Board of Supervisors of the City and County of San Francisco.

(Approved March 27th, 1868)

The People of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. Whereas, the Board of Supervisors of the City and County of San Francisco passed an Order numbered eight hundred which said Order was approved by the Mayor and President of the Board of Supervisors on January fourteenth, eighteen hundred and sixty eight, and which is as follows:

ORDER No. 800.

An Order for the settlement and quieting titles to land in the City and County of San Francisco, situate above high-water mark of the Bay of San Francisco and the Pacific Ocean, and without the corporate limits of the City of San Francisco.

The People of the City and County of San Francisco do ordain as follows:

SECTION 1. Immediately after the passage of this Order the Board of Supervisors shall proceed to devise and adopt a plan for the subdivision into blocks and lots of all the lands not reserved to the United States, situated on the Peninsula of San Francisco and within the present corporate limits of said city and county, and above the natural ordinary high water mark of the Bay of San Francisco and the Pacific Ocean, as the same existed on the seventh day of July, eighteen hundred and forty-six, and without the corporate limits of the City of San Francisco, as defined in the Act to reincorporate the said City, passed by the Legislature of California on the fifteenth day of April, eighteen hundred and fifty-one, so far as said Board may deem such subdivision necessary and to select and set apart for public uses such lots and portions of said land as said Board may deem necessary, subject to the limitations and provisions hereinafter in this Order contained.

SEC. 2. After the adoption of the plan provided for in section one of this Order, the Board of Supervisors shall cause to be made a map of said lands, according to said plan. Such map shall show the streets and public highways, the blocks formed by the intersection of the streets and public highways, and the lots into which said blocks shall be subdivided; and upon such map shall be designated the lots and portions of land set apart for public uses, and the particular use for which each lot or portion of land shall have been set apart.

SEC. 3. Upon the completion of the map provided for by section two of this Order, it shall be deposited for public inspection in the office of the Clerk of the Board of Supervisors, and there remain for a period of thirty days; and notice shall be published in three of the daily papers during the whole time that said map shall so remain in said office.

SEC. 4. Any person having or claiming any interest in any portion of said lands, under and by virtue of any of the provisions of this Order, may at any time before the completion of said map, or while the same shall remain in the office of the Clerk of the Board of Supervisors for public inspection, present to the Committee on Outside Lands, hereinafter in this Order provided for and description and diagram of the lands in which he shall so claim an interest, and have the same delineated on said map; but no claim shall be delineated upon said map by said Committee unless all taxes shall have been paid thereon for five fiscal years preceding the year beginning July first, eighteen hundred and sixty-six.

SEC. 5. After the said map shall have remained in the office of the Clerk of the Board of Supervisors for the said period of thirty days, as provided in section three of this Order, the Board of Supervisors may examine the objections, if any, made thereto, and may make such alterations in the location or designation of any lots or portions of land set apart for public uses as may be necessary to obviate any objections which the said Board may deem just and proper.

SEC. 6. As soon as the alterations provided for in section five of this Order shall have been made and delineated on said map, the said map shall become and be the official map of said lands; and the portions of land thereon designated as public streets and highways, and the tract or portion of land set apart and designated on said map as a public park, and the tract or portion of land set apart and designated thereon as a cemetery, and lots for a hospital, city hall, county jail, public schools, fire department, city library, or other public purposes, shall be deemed absolutely dedicated as such.

SEC. 7. No lot set apart for public use, other than for a park, plaza, cemetery, or public square, or for the erection thereon of a city hall, or buildings for a city library, hospital, county jail or an asylum, shall exceed in extent two fifty-vara lots; and no tract or portion of land set apart for a plaza or public square shall exceed in extent four whole blocks, formed by the intersection of the main streets of the plan; and the tract or portion of land set apart for a cemetery shall not be less in extent than two hundred acres; and the tract or portion of land set apart for a public park shall not be less than one thousand acres.

SEC. 8. No person shall be entitled to receive compensation for any lot or portion of land set apart for public use, unles his claim shall have been delineated on the map hereinbefore in this Order provided for, nor until all conflicting claims to such lot or portion of land shall have been finally determined; and no person shall be entitled to receive compensation for any portion of land included in any street or highway.

SEC. 9. All that portion of land described in section one of this Order, which lies south of a line drawn due south eighty-one degrees and thirty-five minutes east, magnetic, through Seal Rock, and west of a line easterly not less than two hundred feet from ordinary high water mark, is hereby reserved and set apart for public use as a public highway.

SEC. 10. After the Committee hereinafter provided for in section thirteen shall have made their final report upon the said map and reservations, and the report shall be ratified by the Board of Supervisors, it shall be the further duty of the said Committee to make a just appraisement of the lands reserved for public uses other than for streets and highways, and to make a just and equitable assessment of the value of the lands so reserved, rateably and equitably upon and to each piece and parcel of land delineated on said map, according to the appraised value of said lands (exclusive of the lands reserved for public streets and highways). They shall make their report in duplicate, under their hands, or the hands of a majority of them, one copy of which said report shall be filed in the office of the Clerk of the Board of Supervisors, and the other copy of said report shall be filed in the office of the City and County Recorder; PROVIDED, that no member of such Committee shall act in making such appraisements or assessments who shall be interested in any of the lands to be affected; and in case any member of said Committee shall be so interested, the Board of Supervisors shall appoint some other member to act in his place in making said appraisements and assessments. The said Committee shall be sworn to faithfully discharge their duties.

SEC. 11. Upon the payment to the County Treasurer of the City and County of San Francisco, of the amount assessed by the Committee provided for in section thirteen of this Order, upon the lands as provided for in section ten of this Order, the City and County of San Francisco hereby relinquishes and grants all the right, title and claim which the said city and county now has or may hereafter acquire as the successor of the pueblo of San Francisco, or as the grantee or patentee of the United States in and to the lands hereinbefore in this Order described and not excepted or reserved, or intended to be excepted or reserved by any of the preceding sections or provisions of this Order, and which may not be set apart for public use under any of the preceding sections and provisions and upon which shall be paid, previous to the first day of April, eighteen hundred and eighty-eight, all taxes which have been assessed thereon during the five fiscal years preceding the year beginning July first, eighteen hundred and sixty-six, unto the person or the heirs and assigns of persons who were, on the eighth day of March, eighteen hundred and sixty-six, in the actual bona fide possession thereof, by themselves, or their tenants, or having been ousted from such possession before or since said day, have recovered or may recover the same by legal process. And it is hereby declared to be the intent and object of this section to pass the right, title and claim of the said city and county in and to every tract or portion of said and delineated on said map, except the portions that are or may be reserved as aforesaid, possessed by one person, unto the possessor thereof in severalty, and every separate tract or portion thereof, except the portions that are or may be reserved as aforesaid, possessed by more than one person jointly or in common, unto the possessors thereof jointly or in common.

SEC. 12. The grants and relinquishments by this Order made shall be subject to the selections, reservations and conditions hereinbefore in this Order made and provided for.

SEC. 14. After the foregoing preliminary provided for in section fifteen shall have made their final report upon the said map and description, and the report shall be notified by the board of Supervisors, it shall be the further duty of the said Commission to make a final appraisement of the lands reserved for public use other than for streets and highways, and to make a just and equitable assessment of the value of the lands so reserved. Notwithstanding anything set forth in such permit of land included in said map, according to the appraised value of said lands (exclusive of the lands reserved for public streets and highways). They shall make their report in duplicate, under their hands, or the hands of a majority of them, one copy of which said report shall be filed in the office of the Clerk of the Board of Supervisors, and the other copy of said report shall be filed in the office of the City and County Assessor; PROVIDED, that no assessment of such Commission shall be valid unless concurrence of assessments are still be obtained in any of the lands to be affected, and in case any member of said Commission shall be so interested, he shall be of disqualification with regard some other member to act in his place in making said appraisements and assessments. The said Commission shall be sworn to faithfully discharge their duties.

SEC. 15. Upon the payment to the County Treasurer of the City and County of San Francisco, of the amount assessed by the Commission provided for in section fifteen of this Order, upon the lands so provided for in section one of this Order, the City and County of San Francisco hereby relinquishes and grants all the right, title and claim which the said City and County may have in the ownership of the public of San Francisco, or in the grantee or grantees in this Order mentioned and not assigned or reserved, or intended to be assigned or reserved by any of the provisions of this Order, but which may not be set apart for public use under any of the preceding sections and provisions and upon which shall be paid, previous to the first day of April, eighteen hundred and eighty-eight, all taxes which have accrued thereon during the five fiscal years preceding the year beginning July first, eighteen hundred and eighty-six, unto the person or the heirs and assigns of persons who were, on the eighth day of March, eighteen hundred and eighty-six, in the actual open and peaceable possession, by themselves, or their tenants, or having had owned from such possession indices or stone and fence, there reserved or by recovery the same by legal process. And it is hereby declared to be the intent and object of this section to give the right, title and claim of the said City and County in and to every tract or portion of said land situated on said map, except the portions thereof sold or by be reserved as aforesaid, presumed by the grantee, who the possessory thereof in severally, and every separate tract or portion thereof, except the portions that are or may be reserved as aforesaid, possessed by such person jointly or in common, who the possessors thereof jointly or in common.

SEC. 16. The grants and relinquishments by this Order made shall be subject to the reservations, conditions and restrictions hereinbefore in this Order made and provided for.

SEC. 13. A Committee of five members of the Board of Supervisors shall be chosen by said Board, whose duty it shall be to prepare and report to the Board the plan provided for in section two of this Order, to supervise the making of the map provided for in section three to select, set apart, and designate the lots and portions of land hereinbefore provided to be set apart for public use, and generally to superintend the carrying out of the provisions of this Order; all the acts of said Committee to be subject to the approval of the Board of Supervisors.

SEC. 14. The Committee aforesaid shall receive a reasonable compensation for their services, to be determined by the County Judge.

SEC. 15. Whenever a survey shall be required to determine the boundaries of any claim or portion of any claim, whether ordered by the Committee or requested by the claimants, the expenses of such survey shall be borne by such claimants; and no survey shall be received by the Committee except it shall have been made by the City and County Surveyor, or a surveyor designated by the Committee; and the amount of compensation for such survey shall be fixed by the Committee at a reasonable rate, not to exceed the ordinary charges for such services.

SEC. 16. The Board of Supervisors shall provide, by order for the distribution and payment of those entitled thereto, of the moneys assessed for the cost of reservations, and which shall have been paid to the Cityand County Treasurer under the provisions of section eleven of this Order.

SEC. 17. Nothing in this Order contained shall have the effect to annul or invalidate any action or proceeding heretofore had or commenced under the Orders which are by this Order repealed; and it shall not be necessary to do anew, under this Order, anything therein provided for which is also provided for in the Orders aforesaid, and which has been done under and in pursuance of the provisions of said Orders, and have been ratified by the Board of Supervisors; and all proceedings commenced under said Orders relating to maps and surveys, and not yet completed, shall be continued and completed under this Order.

SEC. 18. Order Seven Hundred and Thirty-three, and all Orders and parts of Orders and Resolutions, so far as they conflict with the provisions of this Order, are hereby repealed.

SEC. 19. This Order is subject in all its parts to ratification by the Legislature, for which application shall be made by the Board of Supervisors.

BE IT THEREFORE ENACTED, That the within and before recited Order and the same is hereby ratified and confirmed, and all proceedings heretofore had and which have taken place or shall hereafter take place under its provisions, are ratified and confirmed in all respects.

PROVIDED, That after the Board of Supervisors shall have set apart a tract of land for a cemetery as provided in said Order

SEC. 14. A Committee of Freeholders of the Board of Supervisors shall be chosen by said board, whose duty it shall be to prepare and report to the board the plan provided for in section two of this Act, to regulate the manner in which the in-junction bonds to be issued, and clearly delineate the lines and points of land hereinbefore provided to be set apart for public use, and generally to supervise the entire execution of the provisions of this Act; all the acts of said Committee to be subject to the approval of the Board of Supervisors.

SEC. 15. The Committee aforesaid shall receive a reasonable compensation for their services, to be determined by the County Judge.

SEC. 16. Whenever a survey shall be required to determine the boundaries of any block or portion of any block, whether or-dered by the Committee or required by the commissioners, the expense of such survey shall be borne by such claimants, and no survey shall be made by the Committee except if such have been made by the City and County Surveyor, or a surveyor designated by the Committee; and the amount of compensation for such survey shall be fixed by the Committee at a reasonable rate, not to exceed the ordi-nary charges for such services.

SEC. 17. The Board of Supervisors shall provide, by order, for the distribution and payment of these municipal vouchers, if the money necessary for the cost of reservations, as aforesaid, shall have been paid to the City and County Treasurer under the provisions of section three of this Act.

SEC. 18. Nothing in this Order contained shall have the effect to bind or invalidate any action or proceeding heretofore had or commenced under the Orders which are by this Order repealed, and it shall not be necessary to do same, under this Order, but-ting forth specified for which is also provided for in the Order aforesaid, and such has been duly entered in pursuance of the provisions of said Order, and have been certified by the Board of Supervisors; and all proceedings commenced under said Order ex-cepting to make and survey, and not yet completed, shall be con-tinued and prosecuted under this Order.

SEC. 19. Order Seven Hundred and Thirty-Nine, and all Orders and parts of Orders and Resolutions, so far as they con-flict with the provisions of this Order, are hereby repealed.

SEC. 20. This Order is subject in all its parts to modi-fication by the Legislature. The rules applicable shall be made by the Board of Supervisors.

SEC. 21. [illegible], that the within and foregoing [illegible] all the acts in hereby specially authorized, and all proceedings heretofore had and which have been taken or shall hereafter take place under its provisions, are ratified and confir-med in all respects.

RESOLVED, That otherwise Board of Supervisors shall have [illegible] upon a trust of land for a cemetery as provided in said Order

and shall have set apart a tract of land for a public park as therein provided, the said Board may, if in their judgment the same would be better for the public health or convenience, by a vote of at least ten members, and with the approval of the Mayor, exchange such lands so set apart for cemetery purposes for other lands not less than two hundred acres in extent, to be used as a cemetery and they may also exchange said lands so set apart for a public park for other lands for the purposes of a public park, and not of less extent than one thousand acres. But no person in actual possession of any of the lands mentioned in the first section of said Order, on the said eighth day of March, eighteen hundred and sixty-six, and on which five years taxes shall have been paid, as provided in such Order, shall be dispossessed ofany of said lands, under any Order heretofore or hereafter made by said Board of Supervisors for the reservation of any of said lands for public uses except for streets, until compensation shall have been actually made to such person, as provided in said Order number eight hundred, and until such compensation shall havebeen made such person shall be allowed to continue in possession of such lands so possessed by them.

SEC. 2. This act shall take effect from and after its passage.

ACT MODIFYING THE PROVISIONS OF THE ACT APPROVING ORDER NO. 800.

AN ACT further to provide for the ratification and confirmation of a certain Order passed by the Board of Supervisors of the City and County of San Francisco, and to modify certain provisions of the same.

(Approved March 27th, 1868)

The People of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. Nothing in the provisions of a certain Order passed by the Board of Supervisors of the City and County of San Francisco, numbered eight hundred, and entitled "An Order for the settlement and quieting titles to land in the City and County of San Francisco, situate above high water mark of the Bay of San Francisco and the Pacific Ocean, and without the corporate limits of the City of San Francisco," nor in the provisions of any Act confirming, or purporting to confirm the same, shall authorize the said Board to exchange any lands set apart and reserved, or to be set apart and reserved for a cemetery or a park, nor deprive the said Board of the power of taking immediate possession of any lands hereafter reserved for public use under the provisions of said Order number eight hundred, or by virtue of the terms of an Act of Congress, approved March eighth, eighteen hundred and sixty-six entitled, "An Act to quiet the title to certain lands within the corporate limits of the City of San Francisco."

SEC. 2. Whenever the report of appraisement mentioned in section ten of said Order number eight hundred shall have been made and filed, as therein provided, it shall be the duty of the City and County Recorder to make out, certify and deliver to the Tax Collector of said city and county a copy of the same, which copy shall be deemed and held to have the same force, effect and validity in regard to the sums therein assessed, as an assessment roll duly approved by the Board of Equalization in regard to State and county taxes. The said Tax Collector shall proceed to collect the said several sums of money assessed in said report in the same manner as state and county taxes are collected by him in said city and county; and all the provisions of the various Acts relating to the collection of the public revenue in said city and county not inconsistent with the provisions of said Order number eight hundred, nor the provisions of this Act, shall apply to the collection of the sums of money so assessed as aforesaid.

SEC. 3. This Act shall take effect from and after its passage.

AN ACT to empower the Board of Supervisors of the City and County of San Francisco to make an appropriation of money to establish the grades of streets and avenues in certain districts in said City and County.

(Approved March 28, 1868)

THE PEOPLE OF THE STATE OF CALIFORNIA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The Board of Supervisors of the City and County of San Francisco is authorized to provide by ordinance for the establishment of the lines and grades of the streets and avenues within the tracts or districts in said City and County hereinafter described, lying without the corporate limits of the City of San Francisco, as defined in an Act entitled an Act to incorporate the City of San Francisco, passed April fifteenth, eighteen hundred and fifty-one, to-wit:

District No.1. That tract lying east of Potrero avenue, south of Mission Creek, west of the water front and north of Precita Creek.

District No.2. That tract west of Potrero avenue, south of the charter line of eighteen hundred and fifty-one produced westerly to the westerly line of Douglas street; easterly of the westerly line of Douglas street continued to Figg or Twenty-seventh street, northerly of Figg or Twenty-second street and Precita Creek.

District No.3. That tract west of the charter line of eighteen hundred and fifty-one, easterly of Douglass street, southerly of the northerly boundary of the San Miguel Ranch, and northerly of the southerly line of Twenty-second street extended to the westerly line of Douglass street.

District No.4. That tract lying southerly of the water front westerly of Devisadero street, northerly of Geary street, easterly of Cemetery avenue and Government Reserve.

District No.5. That tract lying westerly of the charter line of eighteen hundred and fifty-one, northerly of the San Miguel Ranch, easterly of westerly line of West Eighth street, southerly of the Government Reserve and Lone Mountain Cemetery, and that part of Geary street easterly of Cemetery avenue.

SEC. 2. For the accomplishment og the purposes set forth in section one of this Act, and the providing and placing suitable monuments to perpetuate the work, the said Board of Supervisors are authorized to appropriate not to exceed the sum of twenty thousand dollars. The expenditure authorized by this Act, and every item thereof, before it becomes a claim or debt against said city and county, shall first be allowed and ordered paid by the Board of Supervisors, and audited by the Auditor when the same shall be paid by the Treasurer out of the General Fund of the City and County of San Francisco.

SEC. 3. This Act shall take effect and be in force from and after its passage.

REPORT ON OUTSIDE LANDS.

(May 18, 1868.)

Board of Supervisors.

The Board held its regular session last evening. Present: Messrs. Harold, Flaherty, Ashbury, Cavallier, Shrader, Clayton, Canavan, Shattuck, Cole, Stanyan and Nunan. Clayton in the chair.

Reports:

Supervisor Stanyan also presented a report showing that the map of the outside lands has been now completed, about 71 acres of which are for school purposes, and giving particulars as to the hospital lot, conveniences for fire alarm, burial places, etc., but there was no agreement as to a park. A map accompanied the report. Placed on file.

A minority of the Outside Land Committee, by Mr. Ashbury, also reported the proper limits of the park to be 92 acres, exclusive of streets.

A map accompanied this report also. Placed on file.

(The Times, May 19, 1868, Vol. 4, No. 13, p. 1, col. 4.)

ADVERTISEMENT OF COMPLETION OF MAP OF OUTSIDE LANDS AND NOTICE FOR PRESENTATION OF CLAIMS.

(May 19, 1868)

Map of the Outside Lands (Adv).
Clerk's Office, Board of Supervisors, San Francisco, May 19th, 1868.

Public notice is hereby given that the Map of Outside Lands has been completed and deposited in this office for public inspection, and will remain for a period of thirty days; Any person having or claiming any interest in any portion of said lands, under and by virtue of any of the provisions of Order No. 800, May, while the map shall remain in this office for public inspection, present to the Committee on Outside Lands a description and diagram of the lands in which he shall so claim an interest, and have the same delineated on said map, provided that all taxes shall have been paid thereon for five fiscal years preceding the year beginning July I, 1866, as provided in said Orded. ALL Parties having objections to the location or designation of any lots or portions of land set apart for public uses, are hereby required to file the same in this office during the said period of thirty days.

JOHN A. RUSSELL, Clerk.

My. 19-30.
(See Vol. 4-No. 13. Whole No. 490
The Times May 19, 1868. p. 2.col 4.)

REQUIRING NOTICE OF OBJECTION TO MAP OF OUTSIDE LANDS.

(May 19, 1868.)

Board of Supervisors.

The Board held its regular session last night. Present: Harrold, Flaherty, Ashbury, Shattuck, Cavallier, Shrader, Nunan, Canavan, Stanyan, Cole, and Mayor McCoppin in the chair.

Resolutions variously disposed of:

That the Outside Land Committee be requested to give public notice that on Thursday and Friday, the 18th and 19th inst., they will, from one to three o'clock, hear all objections against the location of lands set apart for public use.

Adopted.

(The Times, June 16, 1868, Vol. 4, No. 43, p. 1, col. 4.)

NOTICE OF MEETINGS OF OUTSIDE LANDS COMMITTEE FOR PURPOSE OF HEARING OBJECTIONS AS TO LOCATION OF PUBLIC RESERVATIONS.

(June 16, 1868)

OUTSIDE LANDS

NOTICE TO All PERSONS INTERESTED.

The Comittee on Outside Lands will hold open meetings on Thursday and Friday next, 18th and 19th inst, from 1 to 3 o'clock P.M. at the office of the Clerk of the Board of Supervisors, when they will hear all persons who shall have filed petitions or objections, previous to the 19th inst, relating to the reservations made for public purposes, as delineated on the Map.

CHAS. M. STANYAN
Chairman of Committee.

San Francisco, June 16, 1868.

(The Times, San Francisco, Wednesday June 17, 1868, Vol. 4 No. 41. Whole No. 515, page 2, Column 5.)

FINAL REPORT OF THE COMMITTEE ON OUTSIDE LANDS AS TO CHANGES IN RESERVATIONS FOR PUBLIC USE, ETC.,

(Filed June 22nd, 1868)

To the Honorable the Board of Supervisors of the City and County of San Francisco:

Genthemen:-

Your Committee, having carefully examined all petitions and protests that have been presented to them, and also having heard many of the protestants personally, in relation to the reservations selected by them and delineated upon the Map of the Outside Lands--which said map having been exposed for public inspection for the full period of thirty days' time within the Office of the Clerk of the Board of Supervisors in and for the City and County of San Francisco, in the City Hall, in conformity to the requirements of Order No. 800 of this Board--beg leave to report as follows, to-wit, in favor of granting the following petitions:

Petition of L. Eoff, to change reservation of school lot from block No. 158 to No. 95.

Petition of Adelia D. Clark, to change reservation of school lot in block No. 684.

Petition of McKoon and Pritchard, to change reservation of school lot in block No. 541.

Petition of Thomas Byrne, to change location of school lot in block No. 136 by removing the same fifty-five feet northerly to avoid disturbing house and improvements.

Petition of Eberhard W. Park, to reduce in size school lot in block No. 178, taking fifty feet from off the front on Bryant Street, running back westerly one hundred feet (50 by 100 feet from the north line of lot as now delineated).

Petition of E. J. Foster, to reduce in size school lot in block No, 260 one-half, leaving it 150 feet front on west Twenty-fourth street by 120 feet in depth.

Petition of Sullivan and Lies, to strike out reservation of school lot in block No. 867.

Petition of J. Spottiswood, to change location of fire engine lot from block No. 507 to thecenter of block No. 507, to front on the south side of O'Farrell street, between Baker and Broderick.

Petition of Robert White, to change location of fire engine lot in block No. 184, by moving the same so as to commence 325 feet south of Twenty-fifth street, on the west line of Valencia street, running thence north 25 feet, to avoid disturbing house and improvements.

Petition of George Hudson and others, to have a street sixty-eight (68) feet wide, declared open from Twenty-fourth street to Twenty~~xxx~~ sixth, along the line of the old San Jose road.

Petition of Giles H. Gray, to have New Cemetery Avenue reduced in width to 68 feet and 9 inches, the reduction to be made from off the west line of the avenue as at present delineated on the map.

Petition of William H. Brown and others, to change the location for a Woman's Hospital from block No. 538 on Bush Street (changed at request of Mr. Milo Hoadley, who was present in person at the meeting of committee on the 19th inst.) to the two middle fifty-vara lots of block No. 579, bounded on the east by Baker street, on the west by Lyon, on the north by Clay, and on the south by Sacramento, the said two fifty-vara lots in block 579 belonging to said M. Hoadley.

Petition of Thomas Boyce to change the location of reservation for the Academy of Sciences from block No . 642, said location to be changed to a lot beginning on the east line of First Avenue 100 feet north of the north line of Point Lobos Avenue, running thence east to Mears Street and along the line of Mears street and First Avenue, for quantity equal to two fifty-vara lots, same being the property of E. Franklin, he, the said Franklin, having petitioned the committee to make such change.

Petition of J. DeForest and A.N. Tilden, to change the boundaries of the Park reservation south of Haight Street to conform to the following courses and distances, to-wit: Commencing at the center line of Baker street at its intersection with the south line of Haight Street; thence south 67° 58' east 100 feet, south 86° 31' east 100 feet, south 52° 8' east 75 feet, south 24° 31' east 125 feet, south 38° 56' east 100 feet, south 36° 52' east 270 feet, south 30° 20' west 300 feet, south 58° 53' west 450 feet, south 24° 39' west 344 feet, south 46° 10' west 550 feet north 86° 55' west 115 feet, north 72° 27' west 100 feet, north 49° 30' west 100 feet, north 13° 55' west 100 feet, north 53° 14' west 170 feet, north 22° 34' west 130 feet, north 11° 8' west 190 feet, north 15° 8' east 510 feet, north 52° 15' east 378 feet, north 28° 8' west 60 feet, south 76° 43' west 100 feet, north 35° 40' west 88 feet, north 67° 5' west 100 feet, north 1° 42' west 167 feet, to a point on the south line of Haight Street; thence along the south line of Haight Street north 80° 45' east 865 feet to the place of beginning--containing 40.46 acres. Also, to open a public highway 80 feet wide around the same to intersect the south line of Haight Street.

Petition of E.L.Sullivan and others, to reduce the size of the reservation around Mountain Lake from thirteen acres to conform to the following described boundaries, to-wit: Beginning on the southerly line of the United States Government Reserve at the most easterly point of Mountain Lake, running thence east along said line of the Government Reserve two hundred feet thence southerly to a point where a line drawn easterly and westerly parallel with the most southerly line of blocks, as delineated (such line to be two hundred feet south of the most southerly point of the lake) would intersect; thence westerly along the last named line to a line which, if drawn north and south would be two hundred feet west of the most westerly point of the lake; thence northerly at right angles and along the last named line to the said line of the United States Government Reserve, and thence westerly along the Government Reserve line to the lake.

Petition of Lies and Sullivan, to close all of the streets delineated on the map, lying south of Waller Street, and between Stanyan street on the west and Parl reservation on the east.

Petition of Rev. Bishop J. Alemany, to open Ellis and Broderick streets through his property--Juniper Park or Square--and to close the circular streets as delineated on the map.

Petition of P. H. Blake and others, to change the width of Fulton street as delineated to 68 feet and 9 inches, from the southeast corner of Masonic Cemetery to First Avenue, reduction in width to be added to the blocks along the north line of Fulton street.

Also, in favor of establishing the width of old Cemetery Avenue at 60 feet, from Geary to Bush streets, and that the land lying between the old and new Cemetery Avenues and Bush and Sutter streets, to be used as a publicsquare, and that that lying between

Sutter and Post streets, and the old and new Cemetery Avenues be used for street purposes.

Also to have erased from the map the reservations of school lots, respectively in blocks Nos. 577, 582, 588, 594, 606, 600, 612, 618, same being embraced within the lines of the Park reservation; and instead of those erased and changed by petitions to locate school lots each 137½ feet square from the center of blocks No. 815 on Clay Street, No. 810 on Broadway street, No. 841 on Pacific Street, and No. 848 on Clay Street, making the whole number of lots reserved for school purposes, ninety-one.

Also, to authorize and direct Messrs. Potter and Humphreys to indicate on the Map of Outside Lands the frontage and depth, in feet and inches, of all the reservations made for public uses where such reservations are less or more than one whole block in extent, with reference to streets and boundaries of blocks.

Also to change the names of "West 2nd" and all intervening streets parallel thereto west to the Pacific Ocean, from "Streets" to "Avenues" retaining the same numerical order and designation and description as 2nd Avenue, 3rd Avenue, &c, &c.

Also to extend the west line of the Park Reservation west to the Pacific Ocean.

Adversely to the following petitions:

Petition to Sweeny and Baugh for change of Cemetery Reservation.

Petition of Peter Donahue for change of Park Reservation.

Petition of Treat and Morganthau for change of Hospital Reservation.

Petition of Mission View Homestead Association, for change of school lot in Block No. 122, Potrero.

Petition of J. Friedman and Margaret Doyle, for change of school lot in block No. 530.

And your Committee recommendethat the Map of Outside Lands heretofore reported to this Board be changed accordingly.

C. H. STANYAN
R. BEVERLY COLE,
A. J. SCHRADER
MONROE ASHBURY
CHAS. CLAYTON.

RESOLUTION NO. 8,565 (adopted June 22, 1868)

RESOLVED, That the report of the Committee on Outside Lands, in relation to alterations of the Map of Outside Lands, be and the same is hereby adopted and approved; and that the said Committee be and is hereby authorized and instructed to cause the alteration specified in the said Report to be delineated on said map, and to make the said map in all things (except as to the alterations above referred to) conform to the Report of a majority of said Committee presented with the said map on the 18th day of May, 1868.

MESSAGE OF MAYOR McCOPPIN.

Mayor's Office.
San Francisco, June 29th, 1868.

To the Honorable the Board of Supervisors
of the City and County of San Francisco.

Gentlemen:-

At the last meeting of your Honorable Body, I decided that Resolution No. 8,565, adopting the map of the Outside Lands should be passed to print for five days before final action could legally be taken thereon, which decision or ruling you thought proper to set aside; and inasmuch as very important interests must depend upon the validity of that Resolution, should it be adopted in the manner then proposed, I beg leave most respectfully to submit for your consideration the reasons that influenced me upon that occasion. The 68th Section of the Consolidation Act provides that, "every Ordinance or RESOLUTION of the Board of Supervisors, providing for any specific improvement, the granting of any privilege, or involving the lease or other appropriation of public property, or the expenditure of public moneys (except for sums less than $500), or laying a tax or assessment, and every Ordinance or Resolution imposing a new duty or penalty, shall, after its introduction in the Board, be published, with the ayes and nays, in some City daily newspaper at least five successive days, BEFORE FINAL ACTION BY THE BOARD UPON THE SAME, and every such Ordinance or Resolution, after the same shall pass the Board shall, before it takes effect, be presented to the President of the Board for his approval." The Resolution now pending before your honorable body contemplates the adoption of the Map of the Outside Lands and the absolute dedication of land for public uses. There is nothing in the Act of the Legislature ratifying Order 800 nor in the Act supplemental thereto, nor in any other Act known to me, that repeals that provision of Section 68 of the Consolidation Act to which I have invited your attention, and the last named Act expressly provides that, "the powers of the Board of Supervisors are those granted in this Act, and they are prohibited to exercise any others." I hold, that, as Resolution No. 8,565 has for its object the DISPOSITION OF PUBLIC PROPERTY, REAL PROPERTY, THE LAYING OF A TAX OR ASSESSMENT, AND THE IMPOSITION OF NEW DUTIES AND PENALTIES, it must assume the form of an Ordinance and be passed in the manner required by law. Section 16 of Order 800 says that "the Board of Supervisors shall provide by ORDER for the distribution and payment to those entitled thereto of the moneys assessed for the cost of the reservations, and which shall have been paid to the City and County Treasurer under the provisions of Section 11 of this Order."

If it be necessary for the Board hereafter to provide by Ordinance for the distribution of the moneys assessed for the cost of the reservations, it would seem to be equally or more necessary to establish those reservations, in the first instance by an Ordinance describing the land dedicated to public uses and adopting the map. It is impossible to read the Act of Congress of the 8th of March, 1866, as Act which has since been construed by the Supreme Court of the United States, and which Act alone confers upon your honorable body the power you are now about to exercise, without coming to the conclusion that the reservations can only be made by Ordinance.

That Act reads as follows: "Be it enacted by the Senate and House pf Representatives of the United States in Congress assembled, that all the right and title of the United States to the land situated within the corporate limits if the City of San Francisco, in the State of California, confirmed to the City and County of San Francisco by the decree of the Circuit Court of the United States for the Northern District of California, entered on the 18th day of May, 1865, be and the same are hereby relinquished and granted to the said City of San Francisco and its successors, and the claim of the said City to said lands is hereby confirmed, subject, however, to the reservations and exceptions designated in said decree, and upon the following trusts, namely that all the said lands not heretofore granted to said City, shall be disposed of and conveyed by said city to parties in the bona fide adtual possession thereof, by themselves or tenants, on the passage of this Act, in such quantities and upon such terms and conditions as the Legislature of the State of California may prescribe, except such parcels thereof as may be reserved and set apart by ordinance of said City for public uses." And it will be remembered that the Supreme Court of the United St States has held, in the case of "Grisar vs. McDowell," that the title of the City to the pueblo lands rests upon the decree of the Circuit Court, as modified by the Act of Congress just quoted. The Act of Congress gives the City the power to make reservations for public uses, but it seems to me this power must be exercised in the mode and manner prescribed by the Act itself. Evidently, then, the reservations for public purposes ought to be made by ordinance. Whatever differences of opinion may exist with regard to the boundaries of the proposed park, there appears to be none as to the reservations for other purposes, and I hope, therefore, that the City's title to these will not be endangered, which certainly must be the case should your honorable body insist upon reserving them by Resolution, instead of an ordinance as the law requires. I have the honor to be,

Very respectfully,

FRANK McCOPPIN, Mayor.

CERTIFICATE OF SURVEYORS.
(June 29, 1868)

C. H. Stanyan, Esq.,
Chairman of the Committee on Outside Lands:

Sir:-

We hereby certify that the Map of the Outside Lands has, by the direction of the Committee on Outside Lands, been made in all things to conform to the instructions given to the Committee by the Board of Supervisors in Resolution No. 8,565, passed June 22nd, 1868.

Very respectfully,

POTTER & HUMPHREYS,

Surveyors of the Outside Lands.

REPORT OF COMMITTEE ON MAP OF OUTSIDE LANDS.
(June 29th, 1868)

To the Honorable Board of Supervisors:

Mr. President:- Your Committee on Outside Lands respectfully report they have caused the Map of the Outside Lands to be made to conform to the instructions given to the Committee by the Board in Resolution No. 8,565, passed June 22nd, 1868, in reference thereto, and the said map is now the Official Map of said lands.

C. H. STANYAN,
R. BEVERLY COLE,
A. J. SCHRADER,
CHAS. CLAYTON,
MONROE ASHBURY.

OPINION OF THE CITY ATTORNEY ON THE PUEBLO RESERVATIONS.

City and County Attorney's Office,
July 8th, 1868.

To the Honorable the Board of Supervisors:

Gentlemen:-There has been referred to me for my opinion the acceptance of the Map of the Outside Lands; and the question is asked whether the same must be by resolution, or ordinance passed to print and signed by the Mayor, in order to secure the reservations made and delineated thereon. In regard thereto, I have to say: By Order 800 of this Board, and by an Act of the Legislature confirming the same, approved March 27th, 1868, it is provided, that the Board of Supervisors ~~wi~~ shall proceed to devise and adopt a plan for the subdivision into blocks and lots, of all that property commonly called "Outside Lands", so far as said Board shall deem such subdivision necessary, "and to select and set apart for public uses such lots and portions of said land as said Board may deem necessary, subject to the limitations and provisions hereinafter in this order contained." (Sec.1.)

After this plan has been devised, the Board of Supervisors are to cause to be made a map of said lands according to said plan, which map is to show the streets, public highways, the blocks formed by the intersection of such streets and public highways, the lots into which such blocks shall be subdivided, and upon such map "shall be designated the lots and portions of land set apart for public uses, and the particular use for which each lot or portion of land shall so be set apart." (Sec. 2.)

Upon the completion of the map thus provided for, it is to be deposited for public inspection in the Office of the Clerk of the Board of Supervisors, there to remain for thirty days; and notice of this during such time is to be published in three daily papers. (Sec. 3.)

For the period of thirty days, or until the completion of the map, any person interested in said lands may present his claims to the Committee on Outside Lands; and on complying with certain conditions, have such claim delineated on such map. (Sec.4)

All these steps have been taken. The plan has been devised; the map has been caused to be made; the same has been deposited for public inspection, and persons interested have had their claims delineated thereon.

It is next provided, that when the map shall have so remained on deposit for thirty days, "the Board of Supervisors shall examine the objections, if any they have made, and may make such alterations in the location or designation of any lots, or portions of land set apart for public uses, ad may be necessary to obviate any objection which said Board shall deem just and proper." (Sec. 5.)

This provision has also been complied with. Objections were made, and these were examined by the Committee on Outside Lands. Amended delineations were embodied in a report from that Committee, and adopted by a majority of the Board, on June 22nd 1868.

That the Board of Supervisors could, by adopting a report from the Committee on Outside Lands, make the delineations of the Committee those of the Board--the alterations of the Committee those of the Supervisors - does not admit of a doubt. For it is specially enacted that "a Committee of five members of the Board of Supervisors shall be chosen by said Board whose duty it shall be to prepare and report to the Board the plan provided in Sec. 2 of this order; to supervise the making of the map provided for in

Sec. 3; to select, set apart and designate the lots and portions of land hereinbefore provided to set apart for public use, and generally to superintend the carrying out of the provisions of this order; all the acts of said Committee to be subject to the approval of the Board of Supervisors." (Sec. 13)

The resolution passed by a vote of a majority of the Board on the 22nd of June was to the effect, "that the report of the Cokmmittee on Outside Lands be, and the same is hereby adopted and approved."

So, to, it was perfectly competent to instruct the Committee to "cause the alteration to be delineated on the map", and to make the same conform to the majority report. (People v McCreary; Manuscript Decision of Supreme Court).

The report of that Committee has since been filed, and therein it is stated that the alteraltions have been made on said map, and that the same has been made to conform to the majority report.

Is there any further stpp to take to make this map the Official Map of these lands? Is there any further thing to do in order to secure these reservations? Let the tax of the legislative enactment answer;

"As soon as the alterations provided for in Section Five of this order shall have been made and delineated on said map, the said map shall become and be the Official Map of said lands; and the portions of land thereon designated as public streets and highways, and the tract or portion of land set apart and designated on said map as a public park, and the tract or portion of land set apart and designated as a cemetery, and lots for a hospital, city hall, county jail, public schools, fire department, city library, or other purposes, shall be deemed absolutely dedicated as such." (Sec. 6.)

This language is too plain to be misunderstood. It is clear that everything has been performed necessary to create the map the official map of these lands, and to secure the reservations thereon delineated, unless there is some other portion of this Act, or unless there are other acts, which overrule this section of the statute of 1868, and set at naught the evident intent of the Legislature thus pointedly expressed, such other portion of the acts is said to be Sec. 16; and such other acts are declared to be "the Consolidation Act", and the Act of Congress approved March 8th, 1866. Of these, in their order,

1. Sec. 16 enacts that "the Boardbof Supervisors shall provide, by order, for the distribution and payment to those entitled thereto, of the moneys assessed for the costs of reservations, and which shall have been paid to the City and County Treasurer under the provisions of Section 11 of this order"; and it is argued that if it be necessary for the Board hereafter to provide by ordinance for the distribution of the moneys assessed for the costs of reservations, "it would seem to be equally or more necessary to establish those reservations in the first instance by an ordinance describing the land dedicated to public uses and adopting the map." If this argument had been that it would seem to be equally or more "politic" or more "wise" instead of more "necessary", I might subscribe to it. But addressed to the question of "power", apart from the question of "policy" or "wisdom", such view is erroneous.

The reason that the distribution or payment is to be made by order is, that the word "order" is expressed in Sec. 16 of the Act; and the legal inference is that the word "order" having been expressed in Sec. 16, and in no other section that the word "order" is confined to section 16 and can be extended to no other section; that the word "order" having been applied to the subject of payment and distribution of assessment, and no other subject; that the word "order" is limited to the subject of

payment and distribution of assessment, and can be applied to no other subject embraced within the Act. EXPRESSIO UNIUS EST EXCTUSIO ALTERIUS is the rule of law; exactly the reverse of what is claimed by the reasoning indicated.

11. Section sixty-eight of "the Consolidation Act", among other things, provides:

"Every ordinance or resolution of the Board of Supervisors providing for any specific improvement, the granting of any privilege, or involving the lease or other appropriation of public property, or the expenditure of public moneys (except for sums less than five hundred dollars), or laying any tax or resolution imposing a new duty or penalty shall, agter its introduction in the Board, be published, with the ayes and nays, in some city daily newspaper, at least five successive days before final action by the Board upon the same; and every such ordinance after the same shall pass the Board, shall before it takes effect be presented to the President of the Board for his approval. If he approves, he shall sign it; if not, he shall return it within ten days to the Board, with his objections in writing.

I am unable to see that this provision has any bearing upon the question. The resolution accepting the report of the Committee, and instructing the Committee to delineate on the map the alterations made and agreed upon, does not grant any "privilege or involve the matter of a "lease", or authorize the "expenditure of public money." Nor does it lay any tax or assessment. It is true that HEREAFTER there is to be made "a just and equitable assessment of the value of the lands so reserved, tatably and equitably upon, and to, each piece and parcel of land delineated on said map, according to the value of said land--exclusive of the lands reserved for public streets and highways." But when this is to be done, how to be done, upon what conditions to be done, is fully provided for by section ten. It is not to be done or attempted, until after the Committee shall have made their final report upon the said map and reservations, and the report shall have been ratified by the Board of Supervisors. Then indeed, it becomes the further duty of the said Committee to make a just appraisement, assessment, etc. But to say that the "present" duty of accepting the report, is the "further" duty of making an assessment; to say that the thing to be done "now", as provided in section five, is the thing to be done "hereafter", as provided in section ten; to say that a resolution ratifying the report of the Committee, is a resolution to levy an assessment, when by the law itsefl it is provided as a condition precedent to the making of any assessment, that the report shall first be made and ratified, is to confound all distinctions of terms and obliterate all rules of construction.

It is, however, unnecessary to dwell upon this longer than to ask and answer this question. The Report has been made. The Resolution accepting the Report, and instructing the Committee to delineate on the map the alterations, has been passed, and those alterations have been delineated on said map. HAS such procedure made any assessment? IS there at this time any assessment of the value of the lands so reserved made upon any one piece of land delineated on said map? Has even the appraisement been made upon which to found the assessment? The answer to these inquiries can only be, that no such appraisement or assessment has resulted from the action of the Board in accepting the map and delineating thereon the alterations. Such appraisement and assessment remain "the further duty" of the Committee.

It is said, however, that this resolution "appropriates" public property. Such is not the case. That there is an appropriation of public property when these lands are dedicated to public uses may be admitted. But such, "appropriation" such

"dedication" is not effected by the resolution accepting the Report and causing the alterations to be delineated on the map. Such "appropriation", such "dedication", is effected solely by section six of the Order 800 and the Act of the Legislature.

It is true that by accepting the Report of the Committee, and causing the alterations to be delineated on the map a step is taken which leads directly to an appropriation of public property. But so was the devising and adopting a plan for the subdivision of this land, as provided in section one, a step leading to this result. So causing a map to be made, as provided in section two. So, on the completion of the map, the depositing it for thirty days in the office of the Clerk of the Board, and the publishing the notice in the papers, as provided in section three. So the delineating on the map the claims of persons interested, as provided in section four.

All these were steps taken for the purpose of appropriating these lands to public uses. Had any of them been omitted, the appropriation could not have been made, nor the reservations saved to the city.

The last step provided by section five, that of examining the objections and delineating the alterations on the map, is in itself no more an appropriation of public property than any of these others, and is only brought into prominence because, instead of the first, it necessarily is the last. But it no more requires an order passed to print, and signed by the Mayor, to accept the map from the Committee, with the alterations to be delineated on the map, and to delineate them thereon, than it required an order passed to print, and signed by the Mayor, to hang up the map in the office of the Clerk for thirty days, to cause the map to be made or to devise the plan for subdivision.

It must be remembered that it is not the Mayor, nor yet the Board of Supervisors, either separately or cojointly, who alone make this map the Official Map of Outside Lands, or who dedicate to public uses any land carved out therefrom. It is the Legislature of the State of California, acting in conjunction with the Board of Supervisors, that accomplishes this work. The Legislature, by its enactment of March 27th, 1868, says to the Board, take certain steps, all of which are enumerated in the first five sections of the law. When you have taken them, then we, the People of the State of California, represented in Senate and Assembly, do enact as follows: "As soon as the alterations provided for in section five of this order shall have been made, the said map shall become and be the Official Map of said lands, and the portions thereon designated as public streets, park, cemetery etc. shall be deemed absolutely dedicated as such."

To your Honorable Body has been confided the right of selection, the right to determine what shall be reserved, appropriated, dedicated, but that which makes the reservation, appropriation, dedication, is not the power of the city, but the power of the State. And, unless it can be shown that an order passed to print and signed by the Mayor is necessary to give efficacy to an Act of the Legislature, no such order is necessary to make this map the Official Map of the Outside Lands, or to cause the reservations made to be absolutely dedicated as such.

All the limitations in section sixty-eight of the Act of the Legislature, known as the "Consolidation Act" are limitations on the Board of Supervisors, but not limitations on the Legislature itself.

If Order 800 were only an ordinance of the Board, the limitation in the Consolidation Act in regard to appropriations of public property might be of effect. But being not along an ordinance of the Board, but an act of the Legislature of the State the same is destitute of all application.

111. The Act of Congress, approved March 8th, 1866, remains for review.

It is argued, that because the title to these lands is derivied from the United States through this particular Act, that the conditions named in that Act must be observed. One of those conditions is said to be, that all reservations made by the City must be by "ORDINANCE".

Threeanswers can be made to this objection, any one of which being correct is sufficient.

1. The inquiry at onec arises, what is the meaning of the word "ordinance" as used in the Act of Congress?

It has been assumed, and does not seem to have been denied, that the Senators and Representatives in Congress assembled, when they used the word "ordinance" in this Act, must have meant an order passed to print, and signed by the Mayor, Such assumption is entirely unwarrantable; for the question is, not what the Board of Supervisors of San Francisco, nor the Legislature of the State of California, mean by the word "ordinance" but what is meant by the use of that word by the Congress of the United States.

As is said by the Supreme Court, in Perry v. Washburn, in regard to the meaning of the word taxes. "Whatever view may be taken of taxes under OUR statute, and whether in the provisions for their enforcement they can be treated as debts due the state, the question still recurs, what did Congress intend by the Act under consideration?" (20 Cal. 351)

To arrive at the intention of Congress, we must seek the meaning of the word "ordinance" as defined by authorative writers and lexicographers, and the well settled rules of construction must be invoked and applied. Now, by the best general authorities the meaning of the word "ordinance" is declared to be"a statute, law, RULE, REGULATION, APPOINTMENT." Vide Webster, Worcester, Johnson, Ash, Crabbe and Roget.)

By the best legal authorities ordinance is defined "a law or REGULATION of a municipal corporation." "In American law, an act or REGULATION," etc. "A law or RULE." Vide Burrill, Wharton and Bouvier.)

The rules of construction unquestionably are, even as touching the commonest contract, a fortiori a statute--that words are always to be interpreted to the extent of their meaning. That they are to be held generic rather than specific, and thereby made to cover things collateral rather than identical. That interpretation is ever to be in favor of the comprehensive over the restrictive, the general over the particular sense.

Applying these definitions and these rules, it appears that Congress has said, in the Act approved March 8th, 1877, no more than this; that these lands shall be given to the bona fide settlers, etc. "except such parcels thereof as may be secured and set apart by law, rule, regulation, or appointment of said city."

It cannot be said that this is a forced definition, or a strained construction. That it is the mere meaning of a word in language as written and not as acted on, since it is its practical and every day meaning in various cities. For while it is true that an ordinance by many municipal corporations is enacted, as with us, by a vote of the Supervisors, or Common Council, a passage to print and a signing by the Mayor; nevertheless, not a few municipal corporations create their ordinances simply by a vote of the Supervisors or Common Council, without any further action whatsoever. An examination of the ~~character~~ charters of such American cities as I have been able to find shows this tobe the case in the proportion of three to five. Indeed, while desiring to avoid all affectation of learning, it is proper to say that the word "ordinance" originally meant a law or rule, enacted by the

legislative body alone, without the aid or assent of the Executive. It was this very feature which distinguished an ordinance from a statute. (Vide Coke Littl 159, b. 3 Reec. Hist. English law, 146; Barr on Stat. 41 note X.) And this meaning has not been lost either in definition or usage. The fact that the word ordinance is followed by the words "of said city" does not impair the definition and construction herein adopted. The words "of said city" are not words of "restriction" but words of "description". They are not words of "condition" they are words of "designation".

But it aids to uphold the definition and construction contended for to consider for a moment what this work of "reservation" is. It is not the city's parting with title to another, which might demand some solemn act. It is not even the city's creating title to herself, which perhaps should require an an act more formal. The Act of Congress (as now decided) operates as an absolute grant of all the title of the United States in these lands, to the bona fide settlers, except such portions as may by the city for her own use be "reserved", i.e. "withheld" "retained". The grant has already been made; the gift already bestowed; the title already created. It awaits action upon the part of the city to render the same perfect. But that action is simply one of "assent", of "choice", of "preference", and may be evidenced on the part of the city by any method which is capable of being understood.

To narrow down, then, the word ordinance by definition and construction, instead of enlarging it, in view of the inconsiderable matter which is to be performed by it, would be to sacrifice the spirit of the letter; the substance of the shadow.

(2). This Act of Congress, which declares that the City shall have such portion of the Outside Lands "as may be reserved and set apart by ordinance of said city," is, as to making the reservations, DIRECTORY AND MANDATORY. Every element of a directory statute is contained in it, and every element of a mandatory statute is absent from it. The intent of the Act is to divest the United States of all its title, and to vest the same in the bona fide settlers and the city. The aim and the object of the statute are, for the United States to part with a large and valuable domain. The manner inwhich--the form in which--the same shall be acquired by the settlers or the city, is not of the essence. This of itself would make the statute directory.

But, further, there are no negative words in the statute. The language used is in the permissive and not in the commanding sense. The words are, "such parcels thereof as MAY be reserved and set apart by ordinance of said city." To make this a mandatory statute, the word "shall" ought at least to have been inserted. The word being "may," to escape being held directory, it must be followed by negative words, as "such parcels thereof as may be reserved and set apart by ordinance of said city, and NOT OTHERWISE," or "by ordinance, and in NO OTHER MANNER." The city is not commanded to reserve any of this land. There is no duty enjoined on her by the statute to reserve any part of it. She may reserve a portion of it, or she may not; and what she <u>may</u> reserve she <u>may</u> reserve in such manner and form as to her seems meet and proper. At times it is difficult to determine whether a statute is mandatory or directory, and all the authorities may then with advantage be cited. But no such difficulty is experienced here, I content myself by referring to the leading text book on the subject--viz: Sedgwick on Constitutional and Statutory Law, 368 et seq.

(3) The third and last answer to be given tonthe objection that the Act of Congress enacts that the reservations shall be made by "ordinance" of the city is, that the reservations <u>have</u> been made by ordinance; and that, if Congress commands the reservations to be made by <u>one</u> ordinance it certainly does not command

them to be made by two. The ordinance to which I refer is that of Order 800. That ordinance has been passed by your Honorable body, printed and signed by the Mayor, and that ordinance, so far as any ordinance can, has reserved these lands to the city.

At the time of its introduction the Board of Supervisors had no power to enact it, but it has since been ratified and confirmed by the Legislature, which ratification and confirmation relate back to the time of its passage, and legalize it from the very date of its inception.

In this connection, it is said that the reservations are not in order 800 described by metes and bounds. But by this it cannot be intended to refer to the Act of Congress, as commanding that the ordinance shall contain a description of the reservations by metes and bounds.

If it be conceded that Congress commanded the Board to reserve the lands by ordinance, it surely will not be contended that Congress commanded what such ordinance should contain. Congress did not dictate the terms of the ordinance. Congress did not draw up the ordinance for your honorable body to enact. Admitting that you must proceed by ordinance, what that ordinance shall be, if left with you to determine. You have determined it, and give expression to that determination.

The objection must be independent of any Act of Congress, and this only; that Ordinance 800 is incompetent to reserve these lands for the want of sufficient description. This cannot be held to be true. There is a sufficient description. An ordinance need not be more particular in description than a deed, a will, or a contract, and it is well settled that reference to a diagram, a map, etc., in any of these instruments is sufficient. The objection is the want of certainty of description. But that is certain which can be rendered certain. And when it is enacted that all portions of land designated on the Official Map as reservations, shall be absolutely dedicated as such, and when all the reservations are designated thereon, neither the want of sufficiency or certainty is perceived. Besides, if this objection of want of description is good to any one reservation, whether the Park, Cemetery, or lots for Hospital, City Hall, County Jail, City Library, etc., it is good for ALL THE STREETS intended to be laid out on said lands. These are reservations as much as any one, or all of the others. They are called such in the statute and in the ordinance; they are classed as such in the same sections.

I am not aware that any one proposes by another ordinance to describe therein all the "streets" by metes and bounds but only reservations like the park, cemetery, etc., and yet if metes and bounds are necessary for one reservation, they are necessary for all. The objection would fail on the ground of "inconvenience" alone.

Limiting myself, them, to the question of "power"--and that, too, as directly and immediately presented--I am of the opinion that no further ordinance is needed to make this map the Official Map of the Outside Lands, or to secure to the City the "reservations" thereon delineated. Such further ordinance would neither help nor hurt the matter as it now stands, for the same is no longer capable of being improved or impaired.

Very respectfully,

HORANCE M. HASTINGS, City Attorney.

RESOLUTION NO. 8622.

(July 13, 1866.)

Resolved, That whereas the Map of Outside Lands, reported to this Board by the Committee on Outside Lands, on the 18th day of May,1868,has been duly exhibited, considered, perfected and completed,as required by,and in conformity to,the provisions of Order No. 800; and the said Committee has made its final report upon said map showing that the same has been made in all things to conform to the instructions given to the Committee by this Board in Resolution No. 8,565, passed June 22nd, 1868; therefore,

Resolved, that the said final report of the said Committee be and the same is hereby approved, ratified and adopted, and that under and by virtue of the provisions of said Order No 800 the said map has become and is the Official Map of the Outside Lands; and all the lots and parcels of land set apart for public uses, as thereon designated,have become and are absolutely dedicated to the uses for which they have been so severally set apart and designated.

ORDER NO. 823.
(Approved July 24, 1868).

Approving the acts of the Committee on Outside Lands and ratifying their final report on the Map and Reservations.

Whereas, the Board of Supervisors did, by Order No. 800, entitled "An Act for the settlement and quieting titles to land in the City and County of San Francisco, situate above high water mark of the Bay of San Francisco and the Pacific Ocean, and without the corporate limits of the City of San Francisco," provide for the making of a map of the lands described in section one of said order, and for the reservation of portions of said lands for public uses; which said order has been duly ratified and confirmed by an Act of the Legislature of the State of California; and,

Whereas, said map and reservations for public uses have been made in conformity to the provisions and requirements of said order; and all the conditions and regulations provided in said order for the inspection of said map have been strictly and fully observed; and all the alterations made by the Board of Supervisors in the location and designation of lots set apart for public uses, have been made and delineated on said map; and the Committee on outside Lands has made its final report upon said map and the reservations for public uses showing that said map has been made to conform in all things to the alterations made by the Board of Supervisors, and to the instructions given to the said Committee in Resolution No. 8565, passed June 22, 1868; and that said map has become, and is, by virtue of the provisions of said Order No. 800 and the Act of the Legislature ratifying the same, the official map of said lands; and the land set apart for public uses, as thereon shown and designated, has become and are by virtue of the provisions of said order and the Act of the Legislature aforesaid, absolutely dedicated for the uses for which they have been so severally set apart and designated; and this Board has adopted a resolution conforming to said report.

Now, therefore, to avoid any possible doubt of the legality, sufficiency and binding and conclusive effect of said resolution,

The People of the City and County of San Francisco do ordain as follows:

Section 1. All the acts of the Committee on Outside Lands in reference to the map of outside lands and reservations, setting apart and designation of lots and lands for public uses, are hereby approved, and its final report upon said map and reservation, made June 22, 1868, is hereby approved, ratified and adopted, and the said map has become, and is hereby declared to be the official map of lands described in Section one of said Order No. 800.

Sec. 2. All the lots and lands shown and designated on said map as set apart for public uses, including those for streets has become, and they are hereby declared to be set apart and absolutely dedicated under and by virtue of the provisions of said Order No. 800 and the Act of the Legislature ratifying the same, to the particular uses for which they have been so severally set apart and designated on said map.

Sec. 3. A written description of the lands reserved and set apart for public uses (except those for streets) as shown and designatedon said map, shall be made and properly authenticated by the Commitee on Outside Lands and the Surveyors and filed in the office of the City and County Recorder, the said description to conform in all respects to the designation and delineation on the map.

RESOLUTION DIRECTING COPY OF DESCRIPTIONS OF PUBLIC RESERVATIONS TO BE MADE.

(July 27, 1868.)

Board of Supervisors.

The Board held its regular session last night. Present: Messrs. Harrold, Flaherty, Cole, Shattuck, Clayton, Cavallier, Shrader, Nunan, Stanyan and Ashbury; the latter gentleman in the Chair.

Resolutions variously disposed of:

To have the Outside Land Committee get a copy of the description of lands for public use in this city, prepared and deposited with the Clerk of this Board. Adopted.

(The Times, July 28, 1868, Vol. 4, No. 75, p. 1, col. 3.)

RESOLUTION No. 8761

EMPOWERING COMMITTEE ON OUTSIDE LANDS

TO EMPLOY CLERICAL ASSISTANTS.

(August 10, 1868.)

Board of Supervisors.

The Board held its regular session last night. Present: Messrs. Flaherty, Shattuck, Clayton, Cavallier, Shrader, Nunan, Stanyan, Harrold, Cole and Ashbury -- the latter gentleman in the Chair.

Resolutions variously disposed of:

To authorize the Committee on Outside Lands to employ clerical aid to appraise and assess outside lands. Adopted.

(The Times, Aug. 11, 1868, Vol. 4, No. 87, p. 1, col. 5.)

PROTEST OF THE CITY AND COUNTY OF SAN FRANCISCO AGAINST THE STRATTON SURVEY.

(November 20, 1868)

Office of the Surveyor-General of the United States for California.

The City and County of San Francisco hereby protests against the "Plat of the Pueblo of San Francisco finally confirmed to the City of San Francisco by Act of Congress approved March 8th 1866, and surveyed under instructions from the Surveyor-General, by James T. Stratton, deputy surveyor," and filed in the office of the United States Surveyor-General for California, at San Francisco, and approved by him on August 13th, 1868, and for cause of protest shows:

FIRST. That the City and County of San Francisco is a municipal corporation and through the City of San Francisco has succeeded to all the rights of the former pueblo of San Francisco otherwise called the Pueblo of Yerba Buena, and especially to the rights which were confirmed to the said City of San Francisco in and by the Circuit Court of the United States, by a decree entered in a proceeding in that Court entitled, "The City of San Francisco vs. United States, by an Act of Congress approved July 1st, 1864, entitled "An Act to expedite the settlement of titles to lands in the State of California" and by an Act of Congress approved March 8th, 1866, entitled "An Act to quiet the title to certain lands within the corporate limits of the City of San Francisco," reference being had to the said decree, a copy of which is hereto annexed marked Exhibit A and to said Acts of Congress and to the following Acts of the Legislature of the State of California namely "An Act to incorporate the City of San Francisco", approved April 15th, 1850, "An Act to re-incorporate the City of San Francisco," approved April 15, 1851, "An Act to re-incorporate the City of San Francisco," approved May 5th, 1855, "An Act to repeal the several charters of the City of San Francisco to establish the boundaries of the City and County of San Francisco, and to consolidate the government thereof," approved April 19th, 1856.

SECOND. That by the law of the land all Mexican and Spanish grants of lands which are bounded in any direction by tide waters extend to the ordinary high water mark, and include within them all marsh lands which are above ordinary high water mark even though those marsh lands are overflowed by the spring tides and are therefore salt, and in this behalf reference is made to the decision of the Supreme Court of the United States in the case of the United States vs. Pacheco, 2d Wallace U.S. Supreme Court Reports, 586, and that of the Supreme Court of California in the People vs. Morrill, 26 California Reports, 336.

THIRD. That in the case in hand, the lands confirmed to the Cityof San Francisco by the decree of the United States Circuit Court are expressly bounded by the ordinary high water mark, as the same are expressly bounded by the ordinary high water mark existed on July 7th, 1846. And in this behalf reference is made to a copy of said decree hereto annexed, marked Exhibit A, and to the said two Acts of Congress.

Fourth. That where such marsh lands are intersected or penetrated by narrow tide inlets, of no use for fishing or navigation the surveys are to follow the general ordinary high water line of the marsh, crossing the mouths of the inlets, and including them in the survey. And in this regard reference is made to the decision of the Supreme Court of California in the case of the People vs. Morrill, 26 California Reports, 336, 355.

FIFTH. That the tract of land on said plat laid down as north and west of Brannan Street, and bounded by Brannan Street and the shore of the bay as laid down on said plat, was on the 7th day of July in the year 1846, almost wholly a tract of overflowed lands, mostly of salt marsh, and hardly any of it overflowed by tide waters except at spring tide, and was almost wholly above ordinary high water mark; which tract of marshy land was in some few places penetrated by some narrow tide inlets, which were of no use for fishing or navigation, the line of which ordinary high water mark was at that time on the side of the bay sharply defined by a growth of samphire, a marine weedy plant which grows down to the line of ordinary high water, and no further, and which line of ordinary high water mark, as the same existed on the said 7th day of July, in the year 1846, is the same as that laid down in the premises and defined by a blue pencil line on an engraved map entitled "U. S. Coast Survey, A.D. Bache, Superintendent, City of San Francisco, and its vicinity, California, surveyed by A.F.Rogers sub-assistant in 1857," which map is marked "Pueblo of San Francisco, John W. Dwinelle of counsel," and is to be filed herewith as a part of this protest; which said tract of marsh land lastly hereinbefore described should have included in the survey of said pueblo lands, and the said survey is therefore defective, because the same were not so included.

SIXTH. That the tract of land on said plats laid down as salt marsh at and above the mouth of Mission Creek, and below the line of ordinary high water mark as laid down on said plat was on the 7th day of July, in the year 1846, almost wholly a tract of overflowed land, mostly of salt ~~wat~~ marsh, above ordinary high water mark, and none of it overflowed by the tide waters, unless at spring tide, except the bed of Mission Creek, and a narrow margin thereto adjoining between ordinary high water mark and low water mark, which tract of land was in some places penetrated by some narrow tide inlets which were of no use for fishing or navigation and mostly connected with a growth of the marine plant called camphire, above described, the lower edge of which marine vegitation presented on the 7th day of July, 1868, a sharply defined line of ordinary high water mark; and which line of ordinary high water mark as the same existed on the 7th day of July, 1846, is the same as that laid down in the premises and defined by a blue pencil line crossing the mouth of said Mission Creek on the said map filed herewith entitled, "United States Coast Survey, &c."

SEVENTH. That the tract of land laid down on said plat at the mouth of Islais Creek and lying east and west of said creek marked "Marsh" and lying below ordinary high water mark as there laid down, on the 7th day of July, 1846, was salt marsh of the same character as those above described, covered by the same kind of marine vegetation, overflowed only at spring tide, and penetrated only by some small tide inlets, but which were of no use for fishing or navigation; and all of it above ordinary high water mark except the bed of Islaid Creek anda narrow margin between ordinary high water mark and low water mark.

Eighth. That the tract of land on said plat adjo ining the tract marked "Presidio Reservation" and marked "Salt Marsh" was on the 7th day of July, 1846, a tract of overflowed salt marsh lands, wholly above ordinary high water mark and overflowed by tide waters only at spring tide, and penetrated only by some small tide inlets which ran nearly to the head of said marsh but which were of no use for fishing or navigation.

NINTH. That a large tract of land lying southeast of the line of Brannan Street between the point where Brannan Street running southwesterly reaches high water mark as laid down on said plat and the point where said Brannan Street extended southwesterly would reach the said mark at the point of Mission Creek which is marked on said plat "Intersects line of segregation of Salt and Marsh Tide Lands," was on the 7th day of July, 1846, above ordinary high water mark.

TENTH. That said tracts of land described in paragraphs fifth to ninth inclusive contains several hundred acres of land ; that the same ought to have been included in said plat and that because the same were and are not so included the said plat is erroneous and defective and ought to be reformed.

ELEVENTH. That on the 7th day of July, 1846, a large portion of the lands included in said "Plat" were sandy and rocky wastes, incapable of cultivation, and that the said waste land sould by law be included within the lands confirmed to said City but excluded from the computed area of the measurements, and the deficiency made up by extending the southern boundary of the tract towards the south, which has not been done in this survey. That the said waste land amounts to several miles square in surface, and the same is proximately described as enclosed within blue pencil line on a map entitled "City and County of San Francisco, compiled from official surveys and sectionized in accordance with United States Surveys," mark "Pueblo of San Francisco, John W. Dwinelle, of counsel," and to be filed herewith.

TWELFTH. That the principle above insisted upon for the inclusion of marshy, sandy, and rock lands and wastes within the boundary of the survey, and excluding them from the computation of the area, is a well recognized one in Spanish and Mexican law and will be found laid down in the "Ordinances de Tierras Y.Aguas," Chapter XI (pages 181, 185, 187, Edition of Madrid and Paris, of 1855.) See also Dwinelle's Colonial History of San Francisco, page 22, paragraph 30.

THIRTEENTH. That all the said tract of land laid down on said "Plat" as lying north and northwest of Brannan Street, has been granted in fee-simple absolutely. The authorities of the pueblo town and City of San Francisco, toupersons who are in possession of the same under said grants, and that if the same, or any part thereof, is excluded from the survey of the pueblo lands of San Francisco the owners, holders and occupants thereof under suhh grants will utterly fail in the title thereto under such grants.

FOURTEENTH. That the said salt marsh lands situate around Mission Creek, and adjoining the Presidio Military Reservation, are held by persons who are in possession and claim the same in fee simple absolute under the late pueblo and City of San Francisco, and that if the same or any part thereof is excluded from the survey of the pueblo lands, the owners, holders, and occupants thereof under the said pueblo will utterly fail in their title thereto as aforesaid and touching the matters set forth in the proceeding subdivisions of this protest, the said City and County of San Francisco refers to the affidavits of John W. Dwinelle, Henry F. Techemacher, Alfred Robinson, Charles Brown, William P. Humphreys, and Augustus F. Rogers, and others which are filed herewith.

FIFTEENTH. And this protestant further objecting to the said "Survey and Plat of said Pueblo Land of San Francisco," says that the said survey and plat are erroneous in this.

First. That they do not conform either to the said final decree of

said Circuit Court of the United States in said action of "The City of San Francisco vs. The United States," or to the said Acts of Congress, approved respectively July 1st, 1864, and March 8th, 1866, and hereinbefore mentioned and referred to or to either of said Acts.

THE CITY AND COUNTY OF SAN FRANCISCO,
JOHN W. DWINELLE, Of Counsel.

Office of the Surveyor-General of the United States for California.

STATE OF CALIFORNIA, County of San Francisco, ss:

John W. Dwinelle, being sworn deposes and says:

I am of full age and a resident ~~of~~ and citizen of the State of California. I came to San Francisco to reside on October 10th A. D. 1849, and have since for the most of the time practiced my profession as counsellor at law in San Francisco aforesaid. As counselor at law I am retained by the City and County of San Francisco to attend to its interests in the survey of its pueblo lands.

The facts alleged in the preceding annexed protest of the City and County of San Francisco are true to the best of my belief and knowledge. I became acquainted with Coast Lines, boundaries and character of the lands embraced in the Peninsular of San Francisco soon after my arrival at San Francisco in 1849, and the description of said Coast Lines, boundaries, and character as contained in said protest were and have been true to my knowledge and belief, ever since I have been acquainted with them.

I further say that I have examined the "Plat of the Pueblo of San Francisco finally confirmed to the City of San Francisco by Act of Congress approved March 8th, 1866, and surveyed under instructions from the Surveyor-General by James T. Stratton deputy surveyor," and filed in the office of the United States Surveyor-General for California, and approved by him August 13th, 1868, and that the lines of ordinary high water mark as laid down thereon are not the same as those with which I became acquainted as aforesaid soon after my arrival at San Francisco, afore, but that the lines of ordinary high water mark, as thesame existed on the 7th day of July, A.D. 1846, and as claimed in the preceding annexed protest at the tract north and northwest of Brannan Street; at an adjoining Mission Creek; at an adjoining Islaid Creek; and at the lower boundary of the salt marsh adjoining the Presidio are the same as laid down in a chart published at Paris in the year 1844, accompanying "De Mofra's Exploration of Oregon and California the said De Mofra's having been here in California as an agent ofFrance for two years during the years 1841, 1842 and 1843.

The Exhibit A hereto annexed is a true copy of the decree of the Circuit Court of the United States rendered in that behalf as therein expressed,

JOHN W. DWINELLE.

Sworn to before me this 20th day of November, 1868.

H. F. LARDNER,
(SEAL) U.S.Com'r, Dist.of Cal.

EXHIBIT A.

Final Decree Confirming the Claim of the City of San Francisco to Its Pueblo Lands, Entered May 18th, 1865

(As set forth on page ____ hereof)

REPORT OF OUTSIDE LAND COMMITTEE WHEN PRESENTING THEIR FINAL REPORT.

(Filed December 7, 1868.)

To the Honorable the Board of Supervisors
Of the City and County of San Francisco:

The undersigned, comprising the Committee on Outside Lands, appointed from your Honorable Body, beg leave to inform you that they have completed their duties as such Committee, required by and under Order No. 800 of this Honorable Board, and have, in accordance with the provisions of said Order, filed their Report in duplicate, one with the County Recorder of the City and County of San Francisco, and one with the Clerk of your Honorable Board. They have also filed two volumes, in which are fully described and set forth the Reservations made for public purposes, one with the said Recorder, and the other, duplicate volume, with the said Clerk, as will appear by the several receipts hereto annexed. Your Committee has also filed with the said Clerk eight Block Books, from which, in connection with the Official Map of Outside Lands, the said Report was written up and completed.

Your Committee would further state, that the whole appraised value of the Outside Lands of said City and County is $12,087,306. The Reservations made for public purposes are as follows, to wit:

		Acres:	Value:
1	Main Park	1013.09	$ 801,593.00
1	Height Park	36.22	88,250.00
3	Public Squares	15.53	12,025.00
1	Cemetery	200.00	127,465.00
1	Mountain Lake	19.93	19,930.00
1	County Hospital	9.54	68,607.00
1	County Jail	1.37	2,750.00
1	City Hall and Library	2.92	35,425.00
1	Asylum for Foundlings	3.30	6,600.00
1	Home for Veteran Soldiers	0.82	1,462.00
1	Home for Inebriates	0.82	2,100.00
1	Woman's Hospital	0.81	5,500.00
1	Ladies' Relief	0.82	1,283.00
1	Academy of Sciences	0.86	3,200.00
91	School Lots	62.21	115,077.00
32	Engine Lots	2.31	5,700.00
139		1376.55	$1,397,027.00

The rate of assessment upon the Outside Lands being fixed at 10 73.100 per cent. upon each $100 of valuation.

C. H. Stanyan, Chairman,
A. J. Shrader,
R. Beverly Cole,
Monroe Ashbury,
Chas. Clayton.

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Hall of Records,)
San Francisco, December 7, 1868.)

Received, San Francisco, December 7, 1868, of C. H. Stanyan, Chairman of the Committee on Outside Lands, three volumes, titled, Assessment of Outside Lands, City and County of San Francisco, marked "A", "B", "C".

Also, one volume, entitled, "Outside Land Reservations."

F. W. Leonard, County Recorder.

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Office of the Clerk of the Board of Supervisors.)
)
San Francisco, December 7, 1868.)

Received from Supervisor Chas. H. Stanyan, Chairman of Committee on Outside Lands of Board of Supervisors of the City and County of San Francisco, three (3) volumes, titled "Assessment of Outside Lands", and marked respectively, "Duplicate A", "B", and "C"; also, one (1) volume, titled "Outside Land Reservations", the same being the duplicate Report of the Outside Land Committee; also, eight (8) block books, marked respectively, "A", "B", "C", "D", "E", "Mission", "Potrero", and "Reservations", and filed on the seventh (7th) day of December, A. D. 1868.

Jno. A. Russell, Clerk Board of
Supervisors.

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Municipal Reports 1868-9.

COMMITTEE ON OUTSIDE LANDS.

(December 7, 1868.)

Board of Supervisors.

The Board held its regular session last night. Present: Messrs. Flaherty, Harrold, Cole, Shattuck, Clayton, Cavallier, Shrader, Canavan, Nunan, Stanyan, Ashbury, and Mayor McCoppin in the Chair.

New Committees:

The following Committees were elected for the ensuing year:

Outside Lands:

Chas. H. Stanyan,

A. J. Shrader,

R. Beverly Cole,

Monroe Ashbury,

J. B. E. Cavallier.

(The Daily Times, Dec. 8, 1868, Vol. 5, No. 29, p. 1, col. 5)

RESOLUTION DIRECTING CLERK TO DELIVER BLOCK BOOKS TO ASSESSOR.

(December 14, 1868.)

Board of Supervisors.

The Board held its regular session last night. Present: Messrs. Harrold, Flaherty, Ashbury, Cavallier, Shattuck, Shrader, Stanyan, Ring, Winkle, Nunan, Cole, and President McCoppin in the Chair.

Resolutions adopted:

To have the Clerk deliver to the Assessor the eight volumes of Block Books of Outside Lands.

(The Daily Times, Dec. 15, 1868, Vol. 5, No. 35, p. 1, col. 3)

RESOLUTION PERMITTING ASSESSOR TO USE MAP OF OUTSIDE LANDS.

(December 21, 1868.)

Board of Supervisors.

The Board held its regular session last night. Present: Messrs. Harrold, Flaherty, Ashbury, Shattuck, Cavallier, Stanyan, Canavan, Nunan, Winkle, Shrader, Ring, Cole, and Mayor McCoppin in the Chair.

Resolutions adopted:

To allow the Assessor the use of the official map of Outside Lands in his office, until he completes the real estate assessment for 1869-70, and a copy thereof.

(The Times, December 22, 1868, Vol. 5, No. 41, p. 1, col. 6.)

ORDER OF COURT FIXING COMPENSATION OF OUTSIDE LANDS COMMITTEE.

OPINION OF J. C. McKINSTRY, JUDGE.

(December 28, 1868,)

(DAILY SAN FRANCISCO TIMES, SAN FRANCISCO, TUESDAY, DECEMBER 29, 1868

Vol. 5. No. 47 Whole No. 693)

NEWSPAPER ACCOUNT.

"Compensation to members of the Outside Land Committee.
Judge McKinstry decides that the sum of $2,100 to each member is reasonable compensation for services rendered.

"In the County Court, yesterday, in the matter of the application of Messrs. Asbury, Cole, Clayton, Stanyan and Shrader, of the Board of Supervisors, and members of the Outside Land Committee, who asked for $10,000 each for services rendered while acting on said committee, Judge McKinstry delivered the following opinion:

OPINION OF JUDGE McKINSTRY.

"By section 14 of Order 800, which was ratified and confirmed by the Act of the Legislature of March 27, 1868, it is provided that the Outside Land Committee "Shall receive a reasonable compensation for the services, to be determined by the County Judge", why this ungracious task was imposed upon the County Judge I shall not stop to inquire, but shall proceed to dispose of the matter to the best of my ability. Subsequent to the ratificatio of the Order the Legislature passed an Act fixing the salary of the members of the Board of Supervisors at $1,2000 a year. This Act did not repeal the fourteenth section of the Order. Both statutes are operative, as they relate to different matters, the one relating to the salary of the Supervisors, as Supervisors, and the other to the compensation of certain members of the Board of special services. Upon the hearing before me a large number of witnesses were examined upon oath. Four members of the Committee thought their services were worth $10,000 each while the fifth testified that $6,000 would compensate him. Five real estate dealers and brokers were examined, of whom three were of the opinion that the services of the Committee be valued at $10,000 to each member, one at $6,000 and one at $3,000. The only Supervisor (not upon the Committee) who was brought before me believed that $1,000 would pay each committee man for his ~~services~~ labor, and that $2,000 would be more than liberal; and the Mayor (who presides over the meetings of the Board) coincided in the statement that $1,000 would be ample remuneration. It will be observed that all these witnesses testified to that which was simply a matter of opinion, and it casts no discredit upon either their integrity or intelligence that I am unable to agree with any of them. But I cannot transfer the responsibility of determining what is a reasonable compensation to the committee to other gentlemen. Nor can I adopt the mere conclusion of any witness without considering the validity of the reasoning by which he reaches that conclusion. It is doubtful whether real estate brokers or owners are in any proper sense "experts", whose opinions are of peculiar value in this matter. If the question were what is real estate worth, or what was it worth to buy or sell a parcel of land, the opinions of the former would be entitled to much weight. As incidental to their business of buying and selling, they are presumed to be "well posted" as to market value of real property. but whether for this reason they are particularly fitted to give an opinion as to what the services of those are worth whose duty was to select and appraise tracts of land, is another question. There is no market value for such services as these. But however this

may be, it is very clear that many elements were introduced into the calculations of the witnesses which were foreign to the merits of the issue before me. The best way to dispose of this foreign matter is to eliminate it from the testimony, by saying what will not be considered in fixing the amount of compensation.

Ist. I shall not consider the origin of the Order 800, why or how it was introduced, how the committee was elected, why certain gentlemen were placed upon it, or the existence or non-existence of a "ring" in the Board, or whether there is anything wrong about a ring if there be one.

2nd. I shall not inquire whether the Committee have faithfully discharged their duties, but, from the very nature of the case, shall assume that they have, and also that they proceeded with all reasonable diligence to perform the same.

3rd. I shall not be controlled by the circumstance that a witness declared that he would not do the work for the highest sum named, nor shall I assume, as to some extent, at least, one witness seemed to do, that we are indebted to the Committee for a "settlement of title" to the outside lands. My impression is that if the Order 800 and the Act confirming it have had, or shall have, any effect in that direction, the Supervisors and Legislature merely simply performed a duty in passing the Order and confirming it.

4th. The amount paid the Kearny Street Commissioners was $5,000 in gold coin each. A single precedent cannot be appealed as to constituting an infallible standard of value, and as a matter of fact, so far as I have been able to learn, the labors of the Commission were much more complicated and occupied much more time than those of the Committee.

5th. I consider as nothing the bodily labor performed by the Committee. They were conveyed to the neighborhood of the different tracts of land in carriages furnished by the City, and the physical exertion of "wading through the sand" can hardly be considered so exhausting as to call for extra compensation.

6th. I shall not attempt to remunerate the members of this Committee to the extent of the money they would have made in their private business had they not been engaged in the public service. Adopting this method, each gentleman might be entitled to a different sum, and would be paid, not for labor which he did perform, but for that which he did not perform.

The duties pefformed by the Committee which called for the exercise of sound judgment, compel attention, and good taste, were, first: to make the selections of the lots and tracts to be reserved for public uses, and, second, to assess the value of all outside lands. I shall assume that they performed all their labor well and faithfully.

The only witness who made a definite statement as to the necessary time employed in the business was Mr. Carter, who said the work could have been done in five months, allowing to each member without reference to his compensation as Supervisor $333.33 a month (the sum paid the Police Judge and County Assessor), this would amount to $I,666.66. But assuming that the Committee have been continuously occupied for eight months, and since the passage of the Act referred to, it would be unjust to them to intimate that they have neglected their duties as members of the Board and of other committees. These gentlemen have occupied official positions; they were Supervisors and, being Supervisors, assumed certain functions in addition to those imposed upon the other Supervisors. They accepted and if they become at any time burdensome could have resigned their places. It seems to me that when they accepted positions on the Committee, and became clothed with an additional public trust, they could not reasonably have anticipated that they would be paid a greater compensation than is allowed by law to those public servants who perform equally difficult or analogous services. We must assume that this idea enters into every contract with the public. The most important City and County officers are paid salaries of from $2,500 to $5000. Allowing to the committee at the rate of $4000 per annum for their services, both as Supervisors and Committee-men for a period of eight months--this would give to each for his labor on the committee about $I,900 in gold coin, about 40 per cent of what was allowed the Kearney Street Commissioners. Being influenced to increase

this sum somewhat by a comparison of the actual labor done by the Committee with that done by the Kearney Street Commissioners, considering also the larger clerical force at the command of the Committee, I shall allow to each member the sum of $2,1000.

Whether there should be allowed anything is a question which cannot be inquired into here. Those who think so should have made opposition to the clause in Order No. 800, which compels me to fix a reasonable compensation, or to its ratification by the Legislature. I cannot go behind the law.

The Clerk was directed to draw an order in accordance with the above opinion.

(Times. Dec. 29, 1868. p.I Cal. I.)

RESOLUTION No. 9524

IN RELATION TO GRADES OF OUTSIDE LANDS.

(February 8, 1869.)

Board of Supervisors.

The Board held its regular session last night. Present: Messrs. Winkle, Harrold, Flaherty, Cole, Ashbury, Shattuck, Ring, Cavallier, Shrader, Nunan, Canavan, Stanyan, and Mayor McCoppin.

Resolutions adopted:

To direct the City Surveyor to furnish specifications and plans for the grades of streets and avenues in the Outside Land District.

(The Times, Feb. 9, 1869, Vol. 5, No. 83, p. 1, col. 4.)

RESOLUTION No. 9546

REQUIRING ASSESSOR TO DELIVER MAP TO CITY AND COUNTY SURVEYOR.

(February 15, 1869.)

Board of Supervisors.

The Board held its regular session last night. Present: Messrs. Winkle, Harrold, Flaherty, Ashbury, Shattuck, Ring, Cavallier, Shrader, Nunan, Canavan, Stanyan, Mayor McCoppin in the Chair.

Resolutions adopted:

To request the City Assessor to deliver the map of Outside Lands to the City Surveyor for him to prepare plans for grades in Outside Districts.

(The Times, Feb. 16, 1869, Vol. 5, No. 89, p. 1, col. 4.)

ORDER NO. 866.

TO AMEND ORDER NO 748 ENTITLED AN ORDER "TO EXPEDITE THE SETTLEMENT OF LAND TITLES IN THE CITY AND COUNTY OF SAN FRANCISCO," AND OTHER ORDERS AMENDATORY THEREOF AND SUPPLEMENTAL THERETO.

(Approved April 29, 1869)

The People of the City and County of San Francisco do ordain as follows:

Section I. The first section of an order approved December 22nd, 1866, entitled "An Order" To Expedite the settlement of land titles in the City and County of San Francisco", numbered 748, as amended by Order No. 771, approved April 19th, 1867, is hereby amended so as to read as follows:

Section I.- Upon receiving a petition from any person or persons claiming that they, by themselves, their tenants, or the persons through they claim or derive possession, have been, from and including the eighth day of March, eighteen hundred and sixty-six, and still are in the possession of any of the lands without the corporate limits of the City of San Francisco, as defined in an Act to reincorporate said City, passed by the Legislature of the State of California, on the fifteenth day of April, eighteen hundred and fifty-one, and described in the decree of Justice Field of the United States Circuit Court confirming the claim of the City and County of San Francisco, entered November second, eighteen hundred and sixty-four, in the Circuit Court of the United States for the Northern District of the State of California; and that they or the persons from whom they claim or derive possession, have paid to the Tax Collector of the City and County of San Francisco the amount assessed by Outside Land Committee upon the land described in said petition, to pay for land reserved for public uses--provided for in section ten of Order 800, and also paid the taxes mentioned in section four of said order, and all the taxes levied on said lands for state and municipal purposes now due and remaining unpaid; or, upon receiving a petition from any person or persons setting forth that said petitioners by themselves, their tenants, or the persons through they claim or derive possession, were, on or before the first day of January, eighteen hundred and fifty-five, to, and including the twentieth day of June, eighteen hundred and fifty-five, and still are, in possession of the land described in said petition, embraced within the corporate limits of the City of San Francisco, and above high-water mark as defined in the Act to incorporate said City, passed by the Legislature of the State of California, on the fifteenth day of April, eighteen hundred and fifty-one; and such petition in either case setting forth that such lands have not been sold, leased, dedicated, reserved or conveyed by authority of the said City and County of San Francisco, or the United States, to any one or for any purpose, and asking for a grant from said City and County, the Board of Supervisors shall proceed to act thereon as hereinafter provided. This petition shall be verified by the oath of affirmation of the party in whose behalf the petition is presented, or by some one acting as his agent and conversant with the facts detailed in the petition.

Section 2. of said Order No. 748, is hereby amended so as to read as follows:

Section 2. All petitions mentioned in the first section of this Order shall be referred to the Committee on Outside Lands. The Clerk of the Board of Supervisors shall be Clerk of the Outside Land Committee. The party presenting the said petition may appear before said clerk, and make proof, verbal and documentary, of the truth of the matters alleged in his petition. Copies of the documentary evidence shall be filed with the said Clerk, and the oral testimony shall be reduced to writing by the said Clerk, and subscribed by the witness. The proofs of the petitioner being closed, the said Committee shall proceed to consider the same, and shall make such report and recommendation thereon as to them shall seem just and proper in the premises. The said

Committee shall file with the Clerk of the Board of Supervisors the testimony taken as aforesaid, together with the report of the said Committee; and said report shall be submitted to the Board of Supervisors for their approval, and if in their judgment the claim of the petitioner is well founded, they shall, by an order entered in their minutes, adjudge and award a grant of such lands to the petitioner or petitioners therefor, less the amount reserved for public use. The said Board shall thereupon give public notice of their award, by a notice published once a week for three consecutive weeks, in some daily newspaper published in the City and County of San Francisco, which notice shall specify the name of the applicant, the date and filing of his petition, and the tract of land awarded, by a good and sufficient description thereof. Proof of such publication shall be made in the manner now or hereafter required by law for the proof of publication in civil process. The Clerk of the said Committee shall be allowed compensation for taking the oath or affirmation of witnesses twenty-five cents and for reducing the testimony to writing, twenty cents a folio, which shall be in full and for all services rendered by him as Clerk of said Committee. The compensation herein allowed to the Clerk of said Committee shall be paid to said clerk by the party presenting the petition.

Section 3 of said Order No. 748 is hereby amended so as to read as follows:

Section 3. Upon receiving proof of the publication of the notice provided for in the second section hereof, and the payment of all necessary expenses for deeds, the Mayor of the City and County of San Francisco is hereby authorized and empowered to execute, acknowledge and deliver to the party or parties presenting the aforesaid petition, a deed of conveyance of the tract or lot of land as aforesaid, adjudged and awarded to the petitioner, and attach thereto the corporate seal of the City and County of San Francisco; provided, the petitioner or petitioners shall, before receiving a deed as aforesaid, be required to quit-claim and peaceably deliver the possession of all land claimed by said petitioner or petitioners, reserved by the Commissioners, acting under Ordinance eight hundred and twenty-two (822) and all those lands reserved by the Committee of the Board on Outside Lands, for the use and benefit of the City and County of San Francisco; provided, however, that in case a suit shall be pending between the petitioner and some third person, involving the right of possession of the tract, or some portion thereof petitioned for, and such third person shall file with the Clerk of the Board of Supervisors a copy of the complaint filed in such action before the deed shall have been executed and delivered to the petitioner, and also competent proof that such third person, or the persons through they claim or derive possession, have paid the taxes and assessments mentioned in the first section of this Ordinance; then, and in that case, the deed shall be withheld until such suit shall be finally determined; and there shall thereafter be executed a deed of conveyance of so much of the tract of land as shall be involved in the said suit, to the party in whose favor the said suit shall be finally determined, as aforesaid; provided, further, that the expenses hereinafter provided for shall be paid before such conveyance shall be delivered.

Section 4 of said Order NO. 748 is hereby amended so as to read as follows:

Section 4. Upon the filing of a petition as hereinbefore provided, the petitioner shall deposit with the Clerk of the Board of Supervisors a sum of money sufficient to pay for the publication of the notice hereinbefore provided, and other expenses incident to the granting of the prayer of the petitioner. But the Clerk shall no receive on file any petition that shall not be in conformity with the provisions of this Order.

Section 5. A conveyance, executed and delivered in pursuance of the provisions of this Order shall operate as an acknowledgement on the part of said City and County that the title to the land therein described has passed under and by virtue of said Order No.800 of said Ordinance No. 822, as the case may be, and also under and by virtue of the several acts of Congress and the Legislature ratifying said Order and Ordinance, or under the authority of whihh

the same have been passed. Ans such conveyanc eshall likewise operate to grant, convey remise and release to the party his heirs and assigns, named therein, the lands in such conveyance described, and all the estate and interest present and future, of the said City and County of San Francisco in and to such lands.

Section 6. The sixth section of said Order No. 748 is hereby repealed.

Section 7. This Order shall take effect and be in force on and after its passage; and such parts of Order No. 748, and all orders and parts of orders conflicting with this order are hereby repealed. But such repeal shall not invalidate any of the proceedings instituted under the orders of which the present order ia amendatory; and such proceedings may be continued under the provisions of this Order; and whenever such proceedings have been completed,, and the Committee on Ourside Lands of said Board of Supervisors, or a majority of them, have executed and delivered a deed or deeds, the person or persons to whom such deed or deeds were executed, may obtain from the Mayor, at his or their own expense, a deed of the same land executed by him,and sealed with the corporate seal of the City and County of San Francisco, without further petition, proof, award or notice; and the Mayor is hereby authorized and empowered to execute such deeds. Any and all such deeds shall have the like force and effect as the conveyance mentioned in section five of this Order, provoded,that if any grantee in any deed executed by such Committee has heretofore sold or conveyed any land included in such deed, or his, her or theri interest in such land, the deed executed by the Mayor, and sealed with the aforesaid corporate seal, shall be for, and enure to the benefit of such purchaser or purchasers, grantee or grantees, and their heirs, and the deed executed by the Mayor shall expressly so state.

RESOLUTION NO. 9,721 (ADOPTED MAY 3, 1869), APPROVING AND ADOPTING THE FINAL REPORT, READS AS FOLLOWS.

WHEREAS, the Committee on Outside Lands having made their Report of the lands reserved for public use, other than for streets and highways, and of their assessment of the value of the lands so reserved, upon each piece and parcel of land delineated on the map of Outside Lands, according to the appraised value of the lands so delineated, and having filed their Report, in duplicate, under their hand -- one copy of said Report having been filed in the office of the Clerk of the Board of Supervisors, and the other copy of said Report having been filed in the office of the City and County Recorder -- in accordance with the provisions of Section 10 of Order No. 800; therefore,

Resolved, That the said Report of said Committee be, and the same is hereby approved, ratified and adopted in all its parts.

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Municipal Reports 1868-9.

RESOLUTION IN RELATION TO CONTRACT FOR HUMPHREY'S MAP.

(June 28, 1869.)

Board of Supervisors.

The Board held its regular session last night. Present: Messrs. Harrold, Flaherty, Shattuck, Ring, Cavallier, Shrader, Neunan, (sic) Canavan, Stanyan, and Ashbury in the Chair.

Resolutions adopted:

To apply to the next Legislature for the passage of an Act authorizing the payment of a sum not to exceed $5000 to A. Humphreys, for an official map of the city and county.

(Daily Times, June 29, 1869, Vol. 6, No. 50, p. 1, col. 3.)

RESOLUTION No. 250 N. S.

REQUIRING CITY ATTORNEY TO PREPARE FORM FOR CITY DEED.

(August 30, 1869.)

Board of Supervisors.

Monday, August 30th, 1860.

The Board held its regular session last night. Present: Messrs. Flaherty, Cole, Shattuck, Cavallier, Shrader, Hunan, Canavan and Ashbury in the Chair.

Resolutions adopted:

To request the City Attorney to propose a form of deed to be used by the Mayor in awarding outside lands.

To pay $7000 as part payment to Potter & Humpheys (sic) for grades on outside lands.

(Daily Times, Aug. 31, 1869, Vol. 6, No. 104, p. 1, col. 2.)

ORDER NO. 895.

SUPPLEMENTARY TO ORDER NO. 748, "TO EXPEDITE THE SETTLEMENT OF LAND TITLES IN THE CITY AND COUNTY OF SAN FRANCISCO.

(Became valid October 2, 1869)

Whereas, divers co-owners and tenants in common of certain tracts of land, situate on the City and County of San Francisco, and within the limits described in Order No. 800 of this Board, who are or claim to be in possession thereof, as such co-owners andtenants -in-common, under and in accordance with the provisions and terms of said Order No. 800, and as such alleged co-owners and tenants- in common, have had said tracts of land delineated by metes and bounds, and as entireties, upon the map mentioned and provided for in said Order No. 800 and have also severally paid their proportionate share of the taxes upon said tractsof land, for the five fiscal years preceding the year beginning July 1 1866, and all subsequent taxes due thereon, and have filed with this Board their petition, claiming said lands, under and in accordance with the terms and provisions of said Order No. 748 of this Board. NOW, THEREFORE, THE PEOPLE OF THE CITY AND COUNTY OF SAN FRANCISCO DO ORDAIN AS FOLLOWS:

Section I- It shall be lawful for any such alleged co-owners or tenants-in-common of lands situate within the limits described by said Order No. 800, or one or more thereof, or his or their successor or successors in interest who shall have performed the acts and conditions aforesaid, to pay, as such co-owners or tenants-in-common, his or their proportionate share of the amount of any and all taxes or assessments now levied and due, or which may hereafter (at any time prior to the delivery of a deed from the City and County of San Francisco, for his or their undivided interest in said lands) be levied and become due upon the tract or tracts of land wherein he or they hold as such co-owners or tenants-in-common.

Section 2-This Order shall take effect and be in force from and after its passage.

RESOLUTION No. 510 N. S.

ADOPTING FORM FOR CITY DEED.

(October 25, 1869)

Board of Supervisors.

The Board held its regular session last night. Present: Messrs. Winkle, Flaherty, Shattuck, Ring, Cavallier, Shrader, Nunan, Stanyan, Harrold, Canavan, and Ashbury in the chair.

Resolutions adopted:

To approve a form of deed for grants of outside lands. The short form as amended was adopted.

(Daily Times, Oct. 26, 1869, Vol. 6, No. 152, p. 1, col. 5.)

RESOLUTION NO. 410. (New Series.)

(Adopted November 1, 1869.)

WHEREAS, The Tax Collector of the City and County of San Francisco is about to proceed to collect the several sums of money assessed on Outside Lands; and whereas, there are persons to whom sums of money are due from the award of damages; now, therefore, be it

Resolved, That the Tax Collector be, and he is hereby requested to allow to each and every person assessed on Outside Lands, or having any claim to any portion thereof, not claimed adversely, to deduct from the total amount of said assessment due by said person or persons, the total amount of such sum or sums of money as may heretofore have been awarded to the person or persons owning lands that have been reserved for the use of the City and County of San Francisco; provided, that in doing so, the city shall not be liable.

Resolved, That the Board of Supervisors will, at the proper time, petition the Legislature of the State of California to ratify all acts of the Tax Collector performed in pursuance of the foregoing resolution.

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ORDER NO. 900.

TO FACILITATE THE COLLECTION OF OUTSIDE LAND ASSESSMENTS.

The People of the City and County of San Francisco do ordain as follows:

Section 1. That the Tax Collector be and he is hereby requested to receive in payment of the assessments on Outside Lands, orders drawn on the treasury or on himself by persons in whose favor awards of money have been made for lands taken or reserved for the use of the City and County of San Francisco, and in such amounts as may afford the greatest convenience to persons paying the said assessments.

Sec. 2. That the Treasurer of the City and County of San Francisco be and he is hereby directed to pay out to the makers thereof, such orders as may be received by him in payment of assessments on Outside Lands upon the City, receiving a good and valid deed of conveyance of the lands such orders were received as representing.

(See Mayor's veto in front of this book.)

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Municipal Reports 1868-9.

AN ACT TO EXTEND THE TIME FOR THE COLLECTION OF THE ASSESSMENTS ON THE OUTSIDE LANDS IN THE CITY AND COUNTY OF SAN FRANCISCO.

(Approved December 23, 1869)

THE PEOPLE OF THE STATE OF CALIFORNIA REPRESENTED IN SENATE AND ASSEMBLY DO ENACT AS FOLLOWS:

Sec. 1. The Mayor and Tax Collector of the City and County of San Francisco are hereby authorized and empowered to extend, from time to time, the collection of the assessments made and levied in pursuance of Section 10 of the Ordinance of the Board of Supervisors of the City and County of San Francisco, numbered eight hundred upon all the lands not reserved to the United States, situated on the Peninsula of San Francisco, and within the present corporate limits of the City and County, and above the natural ordinary high water mark of the Bay of San Francisco and the Pacific Ocean as the same existed on the 7th day of July, 1846, and without the corporate limits of the City of San Francisco as defined in the act to reincorporate the said City, passed by the Legislature of California on the 15th day of April, Anno Domini eighteen hundred and fifty one, the same being known as "Outside Lands", and described in Order of the Board of Supervisors numbered eight hundred; provided that the time for the collection of said assessment shall not be extended beyond the ninety days from the first day of January, eighteen hundred and seventy.

Sec. 2. All acts and parts of acts, so far as they may be in conflict with the provisions of this Act are hereby repealed.

Sec. 3. This Act shall take effect immediately.

OPINION OF CITY ATTORNEY IN RE
RE-ASSESSMENT OF OUTSIDE LANDS

(January 20, 1870)

Office of City and County Attorney,
San Francisco, Jan. 20, 1870.

A. J. Schrader, Esq.,
Chairman of the Committee on Outside Lands:

Sir:

The Clerk of the Board of Supervisors, on the 12th day of January, 1870, by your direction, submitted for my opinion the question: Whether the Committee on Outside Lands had the power to change the amount of any assessment on Outside Lands where an error had been made in the valuation? On the same day, by direction of the Judiciary Committee, the Clerk submitted the question: Whether the Committee on Outside Lands had the power to change the appraisement of any assessment on Outside Lands included in the Committee's final report where there is no error in the description of the property?

My understanding is that both questions are presented with the view to ascertain whether the power exists in the Board of Supervisors, or the Committee on Outside Lands, or in either one thereof, to correct errors or mistakes in the appraisements or assessments made and levied, of and upon the lands reserved or assessed? I have given special attention to this matter since it was submitted, on account of the great importance of the questions presented, and the effect which it undoubtedly would have upon the settlement of the titles to the "Outside Lands."

The appraisements of, and assessments upon the "Outside Lands," were made and levied under the provisions of Order No. 800 of the Board of Supervisors, entitled "An Order for the settlement and quieting titles to land in the City and County of San Francisco, situate above high water mark of the Bay of San Francisco and the Pacific Ocean, and without the corporate limits of the City of San Francisco," which said Order was ratified by an Act of the Legislature. Approved March 27th, 1868.

Section 13 of said Order authorized and empowered the Board of Supervisors to select a committee of five of the members thereof, whose duty it was to carry out the provisions contained therein.

Section 10 provided that after the Committee had made its final report upon the map and reservations contemplated, and the same were approved by the Board of Supervisors then it should be the further duty of the Committee to make a just appraisement of the lands reserved for public uses other than for streets and highways; and thereafter the further duty was imposed upon the said Committee, to make a just and equitable assessment upon the lands reserved, rateably and equitably upon and to each piece of land delineated on the map, according to the appraised value of the lands delineated thereon, excepting therefrom the lands reserved by the Committee for public streets and highways. It was

also provided that the Committee should make its report in duplicate, one copy to be filed in the office of the Clerk of the Board of Supervisors, and the other inthe office of the City and County Recorder.

It was also provided in said Order that all the acts of the Committee appointed should be subject to the approval of the Board of Supervisors. In pursuance of the authority delegated by said Order, the Board of Supervisors did appoint a Committee of the requisite number, and that Committee performed the duties devolving upon it, made appraisements of and assessments upon all the lands delineated upon the map of the Outside Lands, and filed its report in duplicate of the same in the manner required by the law.

A supplemental act of the Legislature was passed entitled "An Act further to provide for the ratification and confirmation of a certain Order passed by the Board of Supervisors of the City and County of San Francisco, and to modify certain provisions of the same." (Stat. 1867-8, p.412.)

Section 2 thereof provided that, whenever the report of the appraisement mentioned in Section 10 of Order No. 800, shall have been made and filed, as in said Order provided, it should be the duty of the City and County Recorder to make out, certify and deliver to the Tax Collector of the City and County of San Francisco a copy of the same, which should be deemed and held to have the same force, effect and validity in regard to the sums therein assessed as an assessment roll approved by the Board of Equalization in regard to State and County taxes.

On the 7th of January, A.D. 1868, the Committee regularly filed its report. No further action was had until May 3d, 1869, when the Board of Supervisors passed Resolution No. 9721, approving and adopting the report. The labor, duties and responsibilities of that Committee ceased, and the members made application for, and were paid a compensation by the City and County for services rendered.

Reference has been made to the enactments of the Legislature and Board of Supervisors in order that the authority, power and duty of the Committee appointed in pursuance of the provisions of Order No. 800 may be perceived and comprehended. The law presumes the Committees fulfilled the trust reposed in it; and when its report was submitted to and approved by the Board of Supervisors it became final and conclusive as to matters and things therein contained.

The Board of Supervisors has no more authority to change modify or alter an assessment or appraisement contained in said report than the Board of Equalization has to modify or alter the assessment rolls after the time allowed by law to revise and correct errors.

The Committee, which was appointed as required by order 800 has ceased to exist - it was appointed for a special purpose to perform certain acts enumerated, its final report has been made, adopted and ratified by the Board of Supervisors, and is now in the hands of the Tax Collector who is proceeding to collect the various sums assessed.

There is nothing in the provisions of Order 800 from

which it can be inferred that the existence of the Committee was contemplated after the performance of the duties designated, and the present Committee on Outside Lands has no authority under the provisions of said Order; and there is no Committee in existence having authority to alter, modify or revise the work or labor of the Committee under Order No. 800. Errors and imperfections may exist, and it is to be regretted that the attention of the former Committee, or of the Board of Supervisors, was not directed to them prior to the date of the adoption and confirmation of the final report.

The only persons having cause of complaint, are those from whom lands have been reserved and an inadequate appraisement of value made, or those whose lands are assessed, being unequally and excessively valued. Owing to the length of time from the filing of the report to the present date, I am inclined to doubt that the Courts would entertain a bill to correct the appraisement or assessment. If, however, anything was wanting to make the assessment final, conclusive, and valid the provisions of the supplemental act amply supply the deficiency.

But if the power to correct what may appear as errors in the appraisements or assessments existed in the Board of Supervisors, or any Committee thereof, it would be expedient at this time to exercise it. The appraisements and assessments are presumd to have been equally and justly made and levied. Would the Board proceed to the endless investigation of the value of property as it existed at the date of making, either the appraisements or assessments? Would it take into consideration that it may have possibly appeared to the Committee that different property had and possessed different advantages; that one parcel or lot was benefitted; or another injured by the contiguity of different reservations? and if so, by what means would it proceed to ascertain the facts?

That which appears reasonable and just to one set of individuals may seem impracticable and outrageous to another, and it has generally been thought the most an individual can do is to approximate to justice.

The Outside Lands" have been assessed for the sum of $12,087,306.00, as I learn from the report of the Tax Collector and for each dollar of that sum there is a claimant.

Suppose the Board should proceed to revise and modify the assessments so that instead of the amount assessed, there would be only $1,000,000; who would bear the loss? The claimants from whom lands were taken for public uses and purposes, or the City and County of San Francisco? It would be manifestly unjust that the claimants should lose it, and it would certainly be a criminal recklessness which would impose it upon the city and county.

To attempt a revision would place the amount of the deficiency upon one or the other; and although some individuals may be greatly and vastly injured pecuniarily by the report being adhered to, they have only themselves to blame. The report was not ratified until nearly five months after it was filed in duplicate in two of the public offices of the City and County of San Francisco, and it seems to me that within that period of time ample opportunity was afforded to call the attention of the Committee or of the Board of Supervisors to any irregularities, errors, defects or deficiencies existing therein, but having failed to

present any objection until this late date in my judgment the Courts will, if at all, only have authority to examine and hear testimony in relation to the report for the causes for which a deed of the Tax Collector may be questioned or in validated.

Very respectfully yours,

JOSEPH H. NOUGUES,

City and County Attorney.

AN ACT ENTITLED AN ACT TO AUTHORIZE THE BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO TO PAY A CERTAIN CLAIM OF P. W. VAN WINKLE.

(Approved February 17, 1870)

THE PEOPLE OF STATEOF CALIFORNIA REPRESENTED IN SENATE AND ASSEMBLY DO ENACT AS FOLLOWS:

Sec. 1. The Board of Supervisors of the City and County of San Francisco are hereby authorized to appropriate out of the general fund of the City and County the sum of one thousand and five hundred dollars to P. W. Van Winkle for services heretofore rendered by said Van Winkle as Secretary of the Committee on Outside Lands of said Board of Supervisors; and the Auditor of said City and County is hereby directed to audit such claim, and the Treasurer of said City and County shall pay the same in gold coin.

Sec. 2. This Act shall take effect immediately after its passage.

AN ACT TO CONFER ADDITIONAL POWERS UPON THE BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISC, AND UPON THE AUDITOR AND TREASURER THEREOF.

(Approved March 1, 1870)

THE PEOPLE OF THE STATE OF CALIFORNIA, REPRESENTED IN SENATE AND ASSMEBLY DO ENACT AS FOLLOWS:

Sec. 1. The Board of Supervisors of the City and County of San Francisco is hereby authorized and empowered to appropriate, allow and order paid to William P. Humphreys, City and County Surveyor, the sum of five thousand (5000) dollars for an official map of the City and County of San Francisco.

Sec. 2. The Auditor of said City and County is hereby directed to audit, and the Treasurer of said City and County is hereby directed to pay the said sum or sums allowed and ordered paid to said William P. Humphreys out of the General Fund of said City and County of San Francisco,

Sec. 3. This Act shall take effect immediately.

AN ACT TO CONFER ADDITIONAL POWERS UPON THE BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO AND UPON THE AUDITOR AND TREASURER THEREOF.

(Approved March 4, 1870)

THE PEOPLE OF THE STATE OF CALIFORNIA, REPRESENTED IN SENATE AND ASSEMBLY DO ENACT AS FOLLOWS:

Sec. 1. The Board of Supervisors of the City and County of San Francisco are hereby hereby authorized and empowered to appropriate, allow and order paid out of the General Fund, the sum of two thousand eight ~~amixthirty~~ hundred andthirty five one hundredths dollars to Benjamin E. Harris, being money expended by him while Assessor of the City and County of San Francisco for extra work in making up the assessment rolls of personal property and real estate for eighteen hundred and sixty nine and eighteen hundred and seventy, as per plans and subdivisions of Outside Lands and other services incidental thereto.

Sec. 2. The Auditor of the said City and County of San Francisco is hereby directed to audit and the Treasurer of said City and County is hereby directed to pay the said sum allowed and order paid to the said Benjamin E.Harris out of the General Fund of the said City and County of San Francisco.

Sec. 3. This Act shall take effect immediately.

AN ACT TO EXPEDITE THE SETTLEMENT OF LAND TITLES IN THE CITY AND COUNTY OF SAN FRANCISCO, AND TO RATIFY AND CONFIRM THE ACTS AND PROCEEDINGS OF CERTAIN OF THE AUTHORITIES THEREOF.

(Approved March 14, 1870)

THE PEOPLE OF THE STATE OF CALIFORNIA, REPRESENTED IN SENATE AND ASSEMBLE, DO ENACT AS FOLLOWS:

Sec. 1. Upon receiving a petition from any person or persons, claiming that they, by themselves, their tenants, of the persons through whom they claim or derive possession, have been, from an including the eighth day of March, Anno Domini eighteen hundred and sixty-six (1866) and still are, in the possession of any of the lands without the corporate limits of the City of San Francisco, as defined in an act to reincorporate said City, passed by the Legislature of the State of California on the fifteenth day of April, Anno Domini, eighteen hundred and fifty-one (1851) and described in the decree of Justice Field, of the United States Court confirming the claim of the City and County of San Francisco, entered November second, Anno Domini eighteen hundred and sixty-four (1864) in the Circuit Court of the United States for the Northern District of the State of California and that they or the persons through they claim or derive possession, have paid to the Tax Collector of the City and County of San Francisco the amount assessed by the Outside Land Committee upon the land described in said petition, to pay for land reserved for public use, provided for in Section ten (10) of Order eight hundred (800) and also paid the taxes mentioned in section four of said Order and all the taxes levied on said lands for state and municipal purposes now due and remaining unpaid; or, upon receiving a petition from any person or persons setting forth that said petitioners their tenants, or thepersons through whom they claim or derive possession, were, on or before the first (1st) day of January, Anno Domini eighteen hundred and fifty-five (1855) to and including the twentieth (20th) day of June Anno Domini eighteen hundred and fifty five (1855) and still are, in possession of the land described in said petition, embraced within the corporate limits of the City of San Francisco, and above high water mark, as defined in the Act to incorporate said City, passed by the Legislature of the State of California on the fifteenth (15th) day of April, Anno Domini eighteen hundred and fifty-one (1851) and such petition in either case setting forth that such lands have not been sold, leased, dedicated, reserved or conveyed by authority of the said City and County of San Francisco or the United States, to any one or for any purpose, and asking for a grant from said City and County, the Board of Supervisors shall proceed to act thereon as hereinafter provided. This petition shall be verified by the oath or affirmation by the party in whose behalf the petition is presented, or by some one acting as his agent and conversant with the ~~details~~ facts detailed in the petition.

Sec. 2. All petitions mentioned in the first section of this Act shall be referred to the Committee on Outside Lands. The Clerk of the Board of Supervisors shall be the Clerk of the Outside Land Committee. The party presenting the said petition may appear before said Clerk and make proof, verbal and documentary, of the truth of the matters alleged in his petition.

Copies of the documentary evidence shall be filed with said Clerk and the oral testimony shall be reduced to writing by said Clerk and subscribed by the witness. The proofs of the petitioner being closed, the said Committee shall proceedtto consider the same and shall make such report and recommendation thereon as to them shall seem just and proper in the premises. The said Committee shall file with the Clerk of the Board of Supervisors the testimony taken as aforesaid, together with the report of said Committee, and said report shall be submitted to the said Board of Supervisors for their approval, and if in their judgment, the claim of the petitioner is well founded, they shall, by an order entered in their minutes, adjudge and award a grant of such lands to the petitioner or petitioners therefor, less the amount reserved for public use. The said Board shall thereupon give public notice of their award by notice, published at least once a week for three successive weeks, in some daily newspaper published in the City and County of San Francisco, which said notice shall specify the name of the applicant, the date and filing of his petition, and the tract of land awarded, by a good and sufficient description thereof; proof of publication of such notice shall be made in the manner now or hereafter required by law for the proof of publication in civil process. The Clerk of the said Committee shall be allowed compensation for taking the oath or affirmation of witnesses, twenty-five cents; and for reducing the testimony to writing, twenty cents a folio, which shall be in full for all services rendered by him as Clerk of said Committee. The compensation herein allowed to the Clerk of said Committee shall be paid to said Clerk by the party presenting the petition.

Sec. 3. Uppn receiving proof of the publication of the notice provided for in the second section hereof, and the payment of all necessary expenses for deeds, the Mayor of the City and County of San Francisco is hereby authorized and empowered to execute, acknowledge and deliver to the party or parties presenting the aforesaid petition, a deed of conveyance of the tract or lant lot of land as aforesiad, adjudged and awarded to the petitioner, and attach thereto the corporate seal of the City and County of San Francisco, provided, the petitioner or petitioners shall, before receiving a deed as aforesaid, be required to quit claim and peaceably deliver possession of all land claimed by said petitioner or petitioners reserved by the Commissioners acting under Ordinance eight hundred and twenty-two 822) and all of those lands reserved by the Committee of the Board on Outside Lands for the use and benefit of the City and County of San Francisco; provided, however, that in case a suit shall be pending between the petitioner and some third person, involving the right of possession of the tract, or some portion thereof, petitioned for, and such third person shall file with the Clerk of the Board of Supervisors a copy of the complaint filed in such action, before the deed shall have been executed and delivered to the petitioner, and also competent proof that such third persons or the persons through whom the claim or derive possession, have paid the taxes and assessments mentioned in the first section of this Act, and then and in that case the deed shall be withheld until such suit shall be finally be determined; and there shall thereafter be executed a deed of conveyance of so much of the tract of land as shall be involved in the said suit, to the party in whose favor the said suit shall be finally determined as aforesaid; provided further, that the expenses hereinafter provided for shall be paid before such conveyance shall be delivered.

Sec 4. Upon the filing of a petition, as hereinbefore provided, the petitioner shall deposit with the Clerk of the Board of Supervisors, a sum of money sufficient to pay for the publication of the notice hereinbefore provided and other expenses incident to the granting of the prayer of the petitioner. But the Clerk shall not receive on file any petition that shall not be in conformity with the provisions of this Act.

Sec. 5. A conveyance executed and delivered in pursuance of the provisions of this Act shall operate as an acknowledgment on the part of the said City and County, that the title to the land therein described have passed under and by virtue of said Order number Eight Hundred (800) or said Ordinance number Eight Hundred and Twenty-two (822) as the case may be, andalso under and by virtue of the several acts of Congress and the Legislature ratifying the said order and ordinance, or under the authority of which the same have been passed; and such conveyance shall likewise operate to grant, convey, remise and release to the party, his heirs and assigns, named therein, the lands in such conveyance described and all the estate andinterest, present and future, of the said City and County of San Francisco, in and to such lands. But no such conveyance shall in any event be held to impart a warranty or covenant of title on the part of, or to bind said City and County, or any officer thereof.

Sec. 6. All orders and parts of orders of the Board of Supervisors of the City and County of San Francisco, conflicting with Order Eight Hundred and Sixty-six (866) are hereby repealed, but such repeal shall not invalidate any of the proceedings instituted under the order of which Order eight hundred and sixty-six (866) is amendatory, as such proceedings may be continued under the provisions of said order eight hundred and sixty-six (866). Whenever such proceedings have been completed, and the Committee on Outside Lands of said Board of Supervisors, or a majority of them have executed and delivered a deed or deeds, the person or persons to whom such deed or deeds were executed, may obtain from the Mayor, at his or their own expense, a deed of the same land, executed by him and sealed with the corporate seal of the City and County of San Francisco, without further petition, proof, award or notice; and the Mayor is hereby authorized and empowered to execute such deeds. Any and all such deeds shall have the like force and effect as the conveyances mentioned in Section 5 of this Act provided, that if any grantee in any deed executed by such committee has heretofore sold or conveyed any land included in such deed, or his, her or their interests in such land, by writing recorded in the office of the City and County Recorder of the City and County of San Francisco, the deed executed by the Mayor, and sealed with the aforesaid corporate seal shall be, as to the land so sold or conveyed, for, and inure to the benefit of such purchaser or purchasers, grantee or grantees, and their heirs, and the deed executed by the Mayor shall xx expressly so state.

Sec. 7. Whereas, diverse co-owners and tenants in common of certain tracts of land situate in the City and County of San Francisco and within the limits xx described in Order number eight hundred (800) of said Board of Supervisors who are or claim to be in possession thereof as such owners and tenants in common, under and in accordance with the terms and provisions of said Order number eight hundred (800) and as such alleged co-owners and tenants in common, have had said tractsof land delineated by metes and bounds, and as entireties upon the map mentioned and provided for in said Order eight hundred (800) and have also severally paid their proportionate share of the taxes upon said tracts of land for the five fiscal years preceding the year be-

ginning July 1, eighteen hundred and sixty-six (1866) and all subsequent taxes due thereon, and have filed with said Board their petition, claiming said lands under and in accordance with the terms and provisions of said order and order number seven hundred and forty eight (748) of said Board; now, therefore, it shall be lawful for any such alleged co-owner or tenants in common of lands situate within the limits prescribed by said order number eight hundred (800) or one or more thereof, or his successor or successors in interest who shall performed the acts and conditions aforesaid, to pay, as such co-owners or tenants in common, his or their proportionate share of the amount of any and all taxes or assessments now levied and due, or which may hefeafter (at any time prior to the delivery of a deed from the City and County of San Francisco, for his or their undivided interests in said lands) be levied and become due upon the tract or tracts of land, wherein he or they hold as such co-owners or tenants in common; and to facilitate the payments of such proportionate shares the Tax Collector is hereby authorized to divide into smaller parcels any tract or parcel of land claimed by co-owners, owners in severalty or tenants in common, and to apportion to each subdivision the ratable proportion, valued considered, of the assessment made of the whole tract so divided, and after the payment of the apportioned assessment upon any one of such subdivisions, no valid objection shall be made by any party to theacts of the Tax Collector in respect to such division, and the approtioned assessment shall become as valid and binding upon the respective subdivisions to which they have been approtioned, as if no division hadbeen made by said Tax Collector.

Sec. 8. All of the acts and proceedings of the Tax Collector of the City and County of San Francisco, taken or done by him in pursuance of or under the authority of any order or resolution of the Board of Supervisors of said City and County, or in pursuance of or under theauthority of any act of the Legislature of the State of California, in reference to the collection of the taxes or assessments upon what are commonly designated as thwOutside Lands of the said City and County, are hereby ratified and confirmed, and declared to be legal, valid and binding, both upon the lands embraced within the purview of any such act of the Legislature of this State, or order or resolution of said Board of Supervisors of said City and County.

Sec. 9. And whereas, certain lands, known as outside lands of the City and County of San Francisco, have been advertised for sale by the Tax Collector of said City and County, for the non-payment of taxes or assessments levied thereon, known as the outside land tax, which sale has been postponed from time to time by said Tax Collector; and whereas, some of the parties claiming to be the owners of portions of said lands refuse or neglect to pay the taxes so levied as aforesaid, and have enjoined the said Tax Collector from proceeding with said sale; now, therefore, be it enacted, that all the p eces or parcels of land so advertised by the said Tax Collector as aforesaid, on which assessments heretofore levied have not been already paid or shall not be paid to said Tax Collector within thirty days from and after the passage of this Act, shall be sold by said Tax Collector, within thirty days from and after the passage of this Act, shall be sold by said Tax Collector, for gold coin of the United States, as hereinafter provided. Said sales may be adjourned from time to time by said Tax Collector, not exceeding in all sixty days, and may take place at such place in said City and County as the said Tax Collector may designate. The time during which any injunction may be in force restraining the said Tax Collector or other officer of said City and County from proceeding with said sale shall not be computed as any part of the periods limited and fixed within which he may perform the acts and duties

herein defined, but shall be excluded therefrom, the said Tax Collector may retain in his custody so much of the proceeds arising from said sale as shall be necessary to liquidate and pay off the appraisements for reserved lands as heretofore made, pursuant to Order number eight hundred, and all such proper and necessary costs as he may be at in conducting said sale and the collection of such assessments and the overplus thereof he shall pay over to the Treasurer of said City and County; and said Treasurer shall carry the amount so paid to him to the credit of the general fund of said city and county. The amount so retained by the said Tax Collector shall be paid over by him to the parties entitled thereto under section eleven of Order number eight hundred in discharge of the appraisements for reserved lands; and within thirty days from and after he shall have received a sum from assessments equal to the total amount of appraisements for reserved lands, over and above the expenses and costs of making collections, he shall settle and pay off in full the appraisements made as aforesaid; provided, however, when there are conflicting claimants for particular appraisements said Tax Collector shall not be obliged to make payment in such cases until such conflicting claims shall be determined, amicably or otherwise; and the said Tax Collector is hereby authorized from time to time to make distribution on account of said appraisements for reserved lands, pro rata, as often as he shall have on hand fifty per cent or less thereof.

Sec. IO. Said Tax Collector shall issue to each successful purchaser a receipt in duplicate, for the amount bid and paid by him, which receipt shall also contain a brief description of the premises sold, and upon its face entitle the bidder, or his assigns, to a deed of conveyance of the premises therein described at the expiration of twelve months from the date of the sale, unless there shall be a redemption of the premises as hereinafter provided.

Sec. II. Said lands shall be sold subject to redemption and such redemption may be made at any time within twelve months from the date of sale, upon paying to the said Tax Collector the amount bid therefor, together with twenty-five per cent thereon and in addition thereto; and the party redeeming shall also pay such expenses of advertising and other expenses as the said Tax Collector may have incurred in and about the particular tract from the sale of which redemption is sought to be effected; provided, that all lands sold for assessment prior to the passage of this Act shall have the same right of redemption as provided for in section eleven of this Act.

Sec. 12. The Tax Collector, after the expiration of twelve months from the date of sale in which there has been no redemption, shall make a conveyance of the premises sold to the purchaser thereof or his assigns; and where there has been a redemption, he may make redemption thereof to the redemptioner. In cases of redemption, the Tax Collector shall pay over to the holders of receipts the amount bid together with the sum paid by the redemptioner, in addition to the bid.

Sec. 13. This Act shall take effect and be in force from and after its passage.

ORDER NO. 955 ESTABLISHING GRADES.
(September 29, 1870)

Order No. 955, establishing the Grades of Outside Lands in that district bounded by Devisadero Street, Pacific Street, Cemetery Avenue and Geary Street.

The People of the City and County of San Francisco do ordain as follows:

Section 1. The lines and the grades of streets and avenues not heretofore established in that district, bourdedon the East by the westerly line of Devisadero Street, on the North by the northerly line of Pacific Street, on the West by the westerly line of Cemetery Avenue, and on the South by the southerly line of Geary Street, are hereby established, designated and determined as follows, to-wit:

Broderick Street.

Geary	162	Sacramento	184
Post	143	Clay	214
Sutter	141	Washington	243
Bush	157	Jackson	272
Pine	150	Pacific	334
California	170		

Baker Street

Geary	192	Sacramento	214
Post	170	Clay	240
Sutter	165	Washington	260
Bush	175	Jackson	292
Pine	164	Pacific	344
California	184		

Lyon Street

Geary	230	Sacramento	226
Post	202	Clay	262
Sutter	197	Washington	294
Bush	202	Jackson	324
Pine	198	Pacific	370.
California	216		

Cemetery Avenue

Geary	248	Sacramento	254
Post	244	Clay	284
Sutter	240	Washington	314
Bush	236	Jackson	314
Pine	240	Pacific	304.
California	244		

The figures placed opposite the names of the streets indicate the heights above base or zero or level, and are herein adopted.

In Board of Supervisors, San Francisco, September 19, 1970, after having been published five successive days, according to law, taken up and passed by the following vote:

Ayes----- Supervisors Winkle, Flaherty, McCarthy, Ring, Shrader, Canavan, Kelly.
Noes----- Supervisors Bedlam, Story.
Absent----Supervisors Harrold, Ashbury, Adams.

JOHN A. RUSSELL, Clerk.

Approved, San Francisco, September 27, 1870. Thomas H. Selby, Mayor and ex-officio President Board of Supervisors.
(Examiber Thursday Sept. 29, 1870, Vol. XI, No. 77, p.2 col.6.)

ORDER No. 972.

ESTABLISHING THE GRADES OF OUTSIDE LANDS.

The People of the City and County of San Francisco do ordain as follows:

Section 1. The lines and the grades of streets and avenues not heretofore established lying without the corporate limits of the City of San Francisco, as defined in the Act of the Legislature of the State of California, passed April 15th, 1851, entitled "An Act to Reincorporate the City of San Francisco"; and within the tracts and districts situated within the city and county designated in the Act of the Legislature of the State of California entitled "An Act to empower the Board of Supervisors to make an appropriation of money to establish the grades of streets and avenues in certain districts in said city and county", as follows, to wit:

District No. 1 -- That tract lying east of Potrero avenue, south of Mission Creek, west of the water front, and north of the Precita Creek.

District No. 2 -- That tract west of Potrero avenue, south of the Charter line of eighteen hundred and fifty-one, produced westerly to the westerly line of Douglass street; easterly of the westerly line of Douglass street; continued to Figg or Twenty-seventh street, northerly of Figg or Twenty-seventh street and Precita Creek.

District No. 3 -- That tract west of the Charter line of eighteen hundred and fifty-one, easterly of Douglass street, southerly of the northerly boundary of the San Miguel Ranch, and northerly of the southerly line of Twenty-second street extended to the westerly line of Douglass street.

District No. 4 -- That tract lying southerly of the water front, westerly of Devisadero street, northerly of Geary street, easterly of Cemetery avenue and Government Reserve.

District No. 5 -- That tract lying westerly of the Charter line of eighteen hundred and fifty-one, northerly of the San Miguel Ranch, easterly of westerly line of West Eighth street, southerly of the Government Reserve and Lone Mountain Cemetery, and that part of Geary street easterly of Cemetery avenue; are established, designated, determined and defined as hereinafter staked.

Section 2. In district numbers one (1), two (2), and three (3), as heretofore described in Section 1 of this Order, the grades and lines of all the streets and avenues are hereby fixed, established and determined as follows, to wit:

DOUGLASS STREET.

Seventeenth street	198	Twenty-third street	297
260 feet	184	Elizabeth street	274
Eighteenth street	164	Twenty-fourth st.	266
260 feet	170	Jersey street	281
Nineteenth street	212	Twenty-fifth street	315
260 feet.	268	Clipper street	362
Twentieth street	282	Twenty-sixth st.	390
Twenty-first street	332	Army street	430
Twenty-second street	300	Twenty-seventh st.	480
M. Street	299		

DIAMOND STREET

Seventeenth street	174	Twenty-third st.	242
260 feet	150	Elizabeth street	232
Eighteenth street	137	Twenty-fourth st.	222
260 feet	138	Jersey street	230
Nineteenth street	155	Twenty-fifth street	254
Twentieth street	220	Clipper street	285
Twenty-first street	334	Twenty-sixth st.	320
Twenty-second st.	320	Army street	350
M. street	284	Twenty-seventh st.	380

CASTRO STREET.

Twenty-second st.	306	Twenty-fifth street	207
M. street	300	Clipper street	216
Twenty-third st.	290	Twenty-sixth st.	235
Elizabeth street	210	Army street	270
Twenty-fourth st.	182	Twenty-seventh st.	330
Jersey street	195		

NOE STREET.

Twenty-second st.	290	Twenty-fifth street	186
M. street	250	Clipper street	186
Twenty-third st.	208	Twenty-sixth st.	200
Elizabeth street	184	Army street	250
Twenty-fourth st.	170	Twenty-seventh st.	260
Jersey street	158		

EUREKA STREET.

Seventeenth street	178	Twentieth street	237
Eighteenth "	150	Twenty-first	302
Nineteenth "	183	Twenty-second st.	282

SANCHEZ STREET.

Twenty-second st.	290	Clipper street	161
Twenty-third st.	202	Twenty-sixth st.	165
Twenty-fourth st.	167	Army street	163
Jersey street	144	Twenty-seventh st.	161
Twenty-fifth street	140		

VICKSBURG STREET.

Twenty-first street	300	Twenty-third st.	198
Twenty-second st.	250	Twenty-fourth st.	165

CHURCH STREET.

Twenty-second st.	170	Clipper street	120
Twenty-third st.	188	Twenty-sixth st.	117
Twenty-fourth st.	164	Army street	115
Jersey street	150	Twenty-seventh st.	114
Twenty-fifth street	130		

CHATTANOOGA STREET.

Twenty-first street	182	Twenty-third street	134
Twenty-second st.	134	197 feet	137
		Twenty-fourth st.	167

DOLORES STREET.

Twenty-second st.	112	Clipper street	170
Twenty-third street	102	Twenty-sixth st.	140
Twenty-fourth st.	165	Army street	120
Jersey street	214	Twenty-seventh st.	96
Twenty-fifth street	200		

FAIR OAKS STREET.

Twenty-first street	160	Centre of block	153
Twenty-second st.	98	Twenty-fifth street	141
Twenty-third st.	96	Twenty-sixth st.	110
Twenty-fourth st.	132		

GUERRERO STREET.

Twenty-second st.	90	Twenty-sixth st.	90
Twenty-third st.	90	Army street	70
Twenty-fourth st.	106	Twenty-seventh st.	85
Twenty-fifth street	103		

VALENCIA STREET.

Twenty-second st.	70	Twenty-fifth street	75
Twenty-third st.	74	Twenty-sixth st.	70
Twenty-fourth st.	77		

BARTLETT STREET.

Twenty-second st.	64	Twenty-fifth street	70
Twenty-third street	66	Twenty-sixth st.	66
Twenty-fourth st.	68		

MISSION STREET.

Twenty-second st.	60	Twenty-fifth street	64
Twenty-third st.	60	Twenty-sixth st.	62
Twenty-fourth st.	62	473 feet	40

CAPP STREET.

Twenty-second st.	54	Twenty-fifth street	60
Twenty-third st.	56	Twenty-sixth st.	53
Twenty-fourth st.	58		

HOWARD STREET.

Twenty-second st.	50	Twenty-fifth street	56
Twenty-third st.	52	Twenty-sixth st.	50
Twenty-fourth st.	54		

SHOTWELL STREET.

Twenty-second st.	47	Twenty-fifth street	54
Twenty-third st.	50	Twenty-sixth st.	43
Twenty-fourth st.	52		

TREAT AVENUE.

Twenty-second st.	38	Twenty-fifth street	47
Twenty-third st.	40	Twenty-sixth st.	43
Twenty-fourth st.	44		

FOLSOM STREET.

Twenty-second st.	44	Twenty-fifth street	50
Twenty-third st.	46	Twenty-sixth st.	46
Twenty-fourth st.	48		

HARRISON STREET.

Twenty-second st.	34	Twenty-fifth street	44
Twenty-third st.	37	Twenty-sixth st.	40
Twenty-fourth st.	40		

ALABAMA STREET.

Twenty-second st.	32	Twenty-fifth street	40
Twenty-third st.	37	Twenty-sixth st.	37
Twenty-fourth st.	40		

COLUMBIA STREET.

Twenty-second st.	32	Twenty-fifth st.	38
Twenty-third st.	40	Twenty-sixth st.	35
Twenty-fourth st.	40		

YORK STREET.

Twenty-second st.	38	Twenty-fifth street	34
Twenty-third st.	46	Twenty-sixth st.	27
Twenty-fourth st.	38		

BRYANT STREET.

Twenty-second st.	34	Twenty-fifth street	37
Twenty-third st.	44	Twenty-sixth st.	32
Twenty-fourth st.	40		

HAMPSHIRE STREET.

Twenty-second st.	42	Twenty-fifth st.	30
Twenty-third st.	48	Twenty-sixth st.	24
Twenty-fourth st.	40		

POTRERO AVENUE.

Alameda street	15	Twenty-third st.	50
ElDorado street	30	Nevada street	49
Santa Clara street	64	Twenty-fourth st.	42
Mariposa street	57	Yolo street	30
Solano street	56	Twenty-fifth st.	28
Butte street	65	Twenty-sixth st.	20
Sierra street	49	Colusi street	18

UTAH STREET.

ElDorado street	14	Napa street	146
Center street	26	433 feet	94
Santa Clara street	60	Sierra street	60
Mariposa street	100	Nevada street	56
Solano street	96	Yolo	34
Butte street	136	Colusa street	17

NEBRASKA STREET.

ElDorado street	12	Napa street	220
Center street	16	Sierra street	74
Santa Clara street	58	Nevada street	64
Mariposa street	100	Yolo street	48
Solano street	116	Colusi street	16
Butte street	166		

VERMONT STREET.

Center street	16	Sierra street	105
Santa Clara street	44	Nevada street	74
Mariposa street	98	Yolo street	43
Solano street	138	Colusi street	15
Butte street	180	Marin street	6
Napa street	234	Tulare street	0

KANSAS STREET.

Center street	15	Sierra street	136
Santa Clara street	30	Nevada street	86
Mariposa	73	Yolo street	65
Solano	144	Colusi street	16
Butte street	206	Marin street	6
Napa street	255	Tulare street	0

RHODE ISLAND STREET.

Center street	14	Sierra street	192
Santa Clara street	16	433 feet	160
Mariposa street	53	Nevada street	100
Solano street	120	Yolo street	122
Butte street	180	Colusi street	20
Napa street	246	Marin street	10
400 feet	256	Tulare street	0
66 feet	256		

DE HARO STREET.

Center street	13	Sierra street	242
Santa Clara street	15	Nevada street	146
Mariposa	30	400 feet	184
Solano	60	66 feet	184
Butte	116	Yolo street	169
Napa	198	Colusi street	20
400 feet	260	Marin street	6
66 feet	260	Tulare street	0

CAROLINA STREET.

Center street	12	Nevada street	194
Santa Clara street	14	400 feet	230
Mariposa street	22	66 feet	230
Solano street	34	Yolo street	180
Butte street	74	Colusi street	20
Napa street	140	Marin street	6
Sierra street	300	Tulare street	0

WISCONSIN STREET.

ElDorado street	6	400 feet	290
Center street	11	66 feet	290
Santa Clara street	13	Nevada street	262
Mariposa street	20	Yolo	150
Solano street	24	Colusi	40
Butte street	68	Marin	10
Napa street	166	Tulare	0
Sierra street	284		

ARKANSAS STREET.

Center street	10	Sierra street	220
Santa Clara street	12	448 feet	273
Mariposa	22	Nevada street	235
Solano street	40	Yolo street	130
Butte street	100	Colusi street	45
Napa street	180	Marin street	20
433 feet	215	Tulare street	0

CONNECTICUT STREET.

Center street	9	Napa st. south side	164
Santa Clara street	16	400 feet	190
Mariposa st. north side	52	66 feet	190
Mariposa st. south side	53	Sierra st. north side	192
Solano street, north side	89	Sierra st. south side	193
Solano street, south side	90	Nevada st. N. side	193
		433 feet	233
Butte st. north side	126	Nevada st. s. side	192
Butte st. south side	127	Yolo st. north side	81
Napa st. north side	163	Yolo st. south side	80
		Colusi street	30
		Marin street	15
		Tulare street	0

MISSOURI STREET.

Center street	8	Napa street	177
Santa Clara street	12	433 feet	142
Mariposa street	43	Sierra street	140
Solano street	114	Nevada street	220
Butte street	154	Yolo street	100
		Colusi street	10

TEXAS STREET.

Center street	9	433 feet	72
Santa Clara street	11	Sierra street	76
Mariposa street	46	Nevada street	138
Solano street	96	Yolo street	130
Butte street	178	Colusi street	8
Napa street	154	Marin street	2

MISSISSIPPI STREET.

Center street	9	Napa street	168
Santa Clara street	11	Sierra street	40
Mariposa street	30	Nevada street	90
Solano street	80	Yolo street	90
Butte street	154	Colusi street	8

IOWA STREET.

Center street	6	Sierra street	30
Santa Clara street	7	400 feet	22
Mariposa street	16	66 feet	22
Solano street	64	Nevada street	20
Butte street	162	Yolo street	30
Napa street	86	Colusi street	8

PENNSYLVANIA AVENUE.

Center street	8	Sierra street	32
Santa Clara street	10	Nevada street	36
Mariposa street	18	Yolo street	50
Solano street	66	Colusi street	8
Butte street	144	400 feet	2
Napa street	130		

INDIANA STREET.

Center street	6	Sierra street	28
Santa Clara street	8	400 feet	18
Mariposa street	14	66	18
Solano street	50	Nevada street	16
Butte street	122	Yolo street	20
Napa street	76	Colusi street	8

MINNESOTA STREET.

Center street	5	Sierra street	27
Santa Clara street	7	400 feet	16
Mariposa street	12	66 feet	16
Solano street	30	Nevada street	14
Butte street	100	Yolo street	10
Napa street	74		

TENNESSEE STREET.

Center street	4	Sierra street	26
Santa Clara street	6	400 feet	14
Mariposa street	10	66 feet	14
Solano street	15	Nevada street	12
Butte street	40	Yolo street	9
Napa street	56		

KENTUCKY STREET.

Center street	3	Shasta street	40
Santa Clara street	3	Sierra street	30
Mariposa street	5	Humboldt street	20
Solano street	10	Nevada street	11
Butte street	20	Solano (sic)	8
Napa street	30	Yolo	8

ILLINOIS STREET.

Solano street	3	Sierra street	26
Butte street	10	Humboldt street	20
Napa street	20	Nevada street	10
Shasta street	30	Sonoma street	6

MICHIGAN STREET.

Butte street	8	Humboldt street	20
Napa street	15	Nevada street	9
Shasta street	20	Sonoma street	7
Sierra street	22		

GEORGIA STREET.

Butte street	6	Humboldt street	19
Napa street	12	Nevada street	8
Shasta street	16	Sonoma street	6
Sierra street	18		

LOUISIANA STREET.

Butte street	5	Humboldt street	14
Napa street	9	Nevada street	7
Shasta street	12	Sonoma street	5
Sierra street	14		

MARYLAND STREET.

Butte street	4	Humboldt street	8
Napa street	6	Nevada street	6
Shasta street	6	Sonoma street	4
Sierra street	6		

DELAWARE STREET.

Butte street	3	Humboldt street	3
Napa street	3	Nevada street	3
Shasta street	3	Sonoma street	3
Sierra street	3		

The figures placed opposite the names of the streets indicate the proposed height above base or zero of level, and are herein adopted.

Section 3. In district numbers four (4) and five (5) as heretofore described in Section 1 of this Order, the grades and lines of all the streets and avenues are hereby fixed, established and determined as follows, to wit:

BRODERICK STREET.

Waller	280	Vallejo	198
Haight	241	Green	150
Page	230	Union	130
Oak	196	Filbert	104
Fell	186	Greenwich	60
Hayes	196	Lombard	30
Grove	200	Chestnut	21
Fulton	196	Francisco	18
McAllister	234	Bay	15
Tyler	242	North Point	12
Turk	228	Beach	9
Eddy	218	Jefferson	6
Ellis	205	Tonquin	3
O'Farrell	180	Lewis	1
Broadway	294		

BAKER STREET.

Haight	270	Union	88
Page	240	Filbert	60
Oak	208	Greenwich	45
Fell	194	Lombard	30
Hayes	200	Chestnut	21
Grove	204	Francisco	18
Fulton	200	Bay	15
McAllister	220	North Point	12
Tyler	245	Beach	9
Turk	276	Jefferson	6
Broadway	314	Tonquin	3
Vallejo	216	Lewis	1
Green	146		

LYON STREET.

Haight	270	Grove	212
Page	250	Fulton	208
Oak	212	McAllister	215
Fell	206	Tyler	245
Hayes	216	Turk	310

LOTT STREET.

Waller	310	Grove	216
Haight	264	Fulton	212
Page	246	McAllister	215
Oak	220	Tyler	240
Fell	209	Turk	290
Hayes	212		

MASONIC AVENUE.

Waller	276	Grove	224
Haight	254	Fulton	216
Page	240	McAllister	246
Oak	224	Tyler	250
Fell	220	Turk	280
Hayes	230	Point Lobos Ave.	255

ASHBURY STREET.

Waller	272	Fell	240
Haight	258	Hayes	248
Page	244	Grove	254
Oak	234	Fulton	238

CLAYTON STREET.

Waller	255	Fell	234
Haight	252	Hayes	238
Page	248	Grove	260
Oak	238	Fulton	286

COLE STREET.

Haight	258	Hayes	250
Page	252	Grove	270
Oak	242	Fulton	316
Fell	238		

SHRADER STREET.

Waller	260	Fell	242
Haight	270	Hayes	256
Page	256	Grove	293
Oak	246	Fulton	336

STANYAN STREET.

Fulton	306	Haight	260
Grove	310	Waller	264
Hayes	276	Next street south	267
Fell	246	" " "	270
Oak	250	" " "	295
Page	256	" " "	320

WILLARD STREET.

Serpentine Road	390	Blank street	324
Blank street	375	" "	264

PARKER AVENUE.

Fulton	336	655 south of Point Lobos ave.	280
Turk	306	Point Lobos av.	208

WALNUT STREET.

California	260	Washington	284
Sacramento	276	Jackson	252
Clay	304	Pacific	230

LAUREL STREET.

California	270	Washington	250
Sacramento	280	Jackson	218
Clay	288	Pacific	188

LOCUST STREET.

California	266	Washington	248
Sacramento	270	Jackson	215
Clay	278		

SPRUCE STREET.

California	240	127 feet 8-1/4 inches	291
Sacramento	256	Washington	275
Clay	280	Jackson	220

MAPLE STREET.

California	230	Washington	282
Sacramento	250	Jackson	244
Clay	284		

CHEERY STREET.

California	220	Washington	274
Sacramento	246	Jackson	280
Clay	266		

JOSEPHINE STREET.

Point Lobos av.	253	Cemetery fence	286

EUGENIE STREET.

Point Lobos av.	256	Cemetery fence	300

WOOD STREET.

Point Lobos av.	246	Cemetery fence	300

COLLINS STREET.

Point Lobos av.	236	Cemetery fence	276

FERRIE STREET.

Point Lobos av.	226	Cemetery fence	240

COOK STREET.

Point Lobos av.	216	Cemetery fence	222

BOYCE STREET.

Point Lobos av.	216	Cemetery fence	220

WILLIAMSON STREET.

Point Lobos av.	208	Cemetery fence	212

CHASE STREET.

Point Lobos av.	204	Cemetery fence	204

MERRIFIELD STREET.

Point Lobos av.	200	Cemetery fence	196

MEARS STREET.

Point Lobos ave.	196	Cemetery fence	180

FIRST AVENUE.

Road	438	A st.	198
J. St.	406	Point Lobos av.	192
I. St.	324	Clement st.	187
Blank St.	310	Blank St.	182
Blank St.	280	California st.	190
H. St.	250	Sacramento st.	208
Fulton st.	236	Clay st.	216
C. St.	214	Washington st.	230
Turk st.	205	Jackson st.	270
B. St.	204		

SECOND AVENUE.

Blank st.	186	B st.	198
California st.	181	C st.	210
Blank st.	180	Fulton st.	226
Clement st.	183	H st.	262
Point Lobos av.	186	I st.	324
A st.	192	J st.	440

THIRD AVENUE.

Blank st.	186	B st.	192
California st.	170	C st.	208
Blank st.	170	Fulton st.	224
Clement st.	173	H st.	264
Point Lobos av.	176	I st.	300
A st.	186	J street	440

FOURTH AVENUE.

Blank st.	186	C st.	206
California st.	164	D st.	224
Blank st.	163	H st.	266
Clement st.	166	I st.	280
Point Lobos av.	169	J st.	380
A st.	176	Road	408
B st.	184		

FIFTH AVENUE.

Blank st.	184	C st.	206
California st.	161	Fulton st.	224
Blank st.	160	H st.	268
Clement st.	163	I st.	274
Point Lobos av.	166	J street	320
A st.	176	K st.	370
B st.	182		

SIXTH AVENUE.

Blank st.	176	C st.	214
California st.	160	Fulton st.	224
Blank st.	159	H st.	266
Clement st.	163	I st.	274
Point Lobos av.	166	J st.	316
A st.	176	K st.	344
B st.	182		

SEVENTH AVENUE.

Blank st.	154	Fulton st.	224
California st.	158	H st.	260
Clement av.	163	I st.	274
Point Lobos av.	166	J st.	304
A st.	176	K st.	324
B st.	182	L st.	324
C st.	216	M st.	330

EIGHTH AVENUE.

Blank st.	157	H st.	256
California st.	157	I st.	274
Clement st.	163	J st.	284
Point Lobos av.	166	K st.	314
A st.	176	L st.	374
B st.	182	M st.	444
C st.	218	N st.	480
Fulton st.	224	O st.	506

Road around small park commencing on Haight and Baker streets.

Haight street.			286
S 67 degrees	52 minutes	E 100 feet	
S 68	31	E 100	
S 52	8	E 75	310
S 24	31	E 125	
S 38	50	E 100	
S 46	43	E 100	230

S 36	52	E 270	263
S 30	20	W 300	387
S 58	53	W 450	425
S 24	39	W 344	450
S 46	10	W 550	456
N 86	55	W 115	466
N 72	27	W 100	470
N 49	30	W 100	460
N 13	55	W 100	450
N 53	14	W 170	435
N 22	34	W 130	424
N 11 degrees	8 minutes	W 190 feet	406
N 15 degrees	8 minutes	E 510 feet	360
N 52	15	E 378	330
N 28	8	W 60	
N 76	45	W 100	
N 35	40	W 88	
N 67	5	W 100	
N 1	42	W 167	296
Thence to center line of Lyon street			270

SERPENTINE ROAD.

Intersection with San Miguel Ranch line	372
Intersection with N street	360
" " M street	356
" " L street	356
" " Sixth avenue	378
" " Fifth avenue	393
" " K street	406
"" " Fourth avenue	408
" " Third avenue	443
" " Second avenue	450
" " First avenue	438
Thence meandering 700 feet	406
Thence meandering 600 feet	386
Center of Willard street	390

SONOMA STREET.

Vermont street	58
Nebraska street	50
Utah street	45

The figures placed opposite the names of the streets indicate the height above base or zero of level, and are herein adopted.

In the Board of Supervisors, San Francisco, November 7, 1870, after having been published five successive days, according to law, taken up and passed by the following vote:

Ayes: Supervisors Harrold, Flaherty, McCarthy, Badlain, Ring, Story, Shrader, Adams, Canavan, Kelby.

Absent: Supervisors Winkle, Ashbury.

Jno. Russel, Clerk.

Approved, San Francisco, November 9, 1870.

Thomas H. Selby, Mayor,
and ex-officio President Board of Supervisors.

(Examiner Nov. 10, 1870, Vol. XI., No. 113, p. 4, cols 1, 2 & 3.)

ORDER OF GRANT NO. 196.

Order of Grant No. 196.------Outside Lands and Inside Lands. Heretofore Michael O'Connor, Mary Ann Maloney, Peter Borgstrom, Rafaela Manzanares, James Largan, Maggie Mahon nee Guerin, Joseph Musto and James W. Morse, presented to the Board of Supervisors their petitions, each asking from this City and County a grant for certain lands, as provided by the first section of an Act entitled "An Act to Expedite the Settlement of land titles in the City and County of San Francisco," etc., approved March 29th, 1870. The petitions so presented were presented to the committee on Outside Lands; and the petitioners appeared before the Clerk of said Committee and made proofs of the matters alleged in their petitions, as required by the second section of said Act. Afterwards the said Committee duly considered the proffs produced, and filed the same, together with their report thereon with the Clerk of said Board. The said Committee in their said report recommended in each case that a grant be awarded as prayed for in the petition therein, provided the petitioners shall before receiving a deed, quit-claim and peaceably deliver the possession of all lands claimed by them reserved according to the provisions of the said Act. Afterwards on the 18th day of December, 1871, said reports were submitted to said Board that the claims of the petitioners were well founded; whereupon the said reports were and are in all things approved.

Now therefore the people of the City and County of San Francisco do ordain that grants of land be and the same are hereby adjudged and awarded to the said petitioners, severally, as follows, viz:

Outside.

To Michael O'Connor.

Commencing on the easterly line of Folsom Street 185 feet northerly from Twenty-second Street; thence running northerly on Folsom Street 62 feet 6 inches; thence at right angles easterly 80 feet; thence at right angles northerly 25 feet; thence at right angles easterly 42 feet 6 inches; thence at right angles southerly 87 feet 6 inches; thence at right angles westerly 122 feet 6 inches to point of commencement, being portion of Mission Block 54.

To Mary Ann Maloney.

Commencing at the northwesterly corner of Twenty-fourth and Hampshire Streets; thence northerly on Hampshire Street 104 feet; thence at right angles westerly 25 feet; thence at right angles southerly 104 feet; thence easterly on Twenty-fourth street 25 feet to point of commencement-- being portion of Mission Block 149.

To Peter Bergstrom.

Commencing on the easterly line of Hampshire Street 120 feet northerly from Twenty-third Street; thence running northerly on easterly line of Hampshire Street 25 feet; thence at right angles (sic) easterly 100 feet; thence at right angles southerly 25 feet; thence at right angles westerly 100 feet to point of commencement-- being portion of Mission Block 148.

To Rafaela Manzanares.

Commencing on the easterly line of Rhode Island Street 275 feet southerly from Yolo Street; thence running southerly on Rhode Island Street 25 feet; thence at right angles easterly 100 feet; thence at right angles westerly 100 feet to point of commencement-- being portion of New Potrero Block 154.

To James Largen (sic)

Commencing on the northerly line of Geary Street 185 feet easterly from Broderick Street; running thence easterly on Geary Street 30 feet; thence at right angles northerly 125 feet; thence at right angles southerly 125 feet to point of commencement-- being portion of Block 505.

Inside.

To Maggie Mahon nee Guerin,

Commencing at a point in the southerly line of New Potrero Block No. 388, where the lineof ordinary high tide of the Bay of San Francisco intersects the northerly line of Solano Street; running thence westerly on northerly line of Solano Street to a point 100 feet easterly from Tennessee Street; thence at right angles northerly 100 feet; thence at right angles easterly to line of ordinary high tide of the Bay of San Francisco; thence following said line in its meanderings southerly to point of commencement-- being portion of New Potrero Block 388.

To Joseph Musto.

Commencing on the westerly line of Battery Street 94 feet 3 inches northerly from Pacific Street; thence running northerly on Battery Street 43 feet 3 inches; thence at right angles westerly 137 feet 6 inches; thence at right angles southerly 43 feet 3 inches; thence at right angles easterly 137 feet 6 inches to point of commencement-- being portion of Beach and Water Lots 34 in Block 32.

To James D. Moore.

Commencing at the southeasterly corner of Mason and Pacific Streets; thence running easterly and southerly line of Pacific Street 103 feet 2 inches; thence at right angles southerly 62 feet 6 inches; thence at right angles westerly 27 feet 8 inches; thence at right angles southerly 10 feet 6 inches; thence westerly 75 feet 6 inches to Mason Street; thence northerly 73 feet to point of commencement--- being portion of Block ?_____.

And the Clerk is hereby directed to publish notices of the aforesaid awards for three consecutive weeks in the Daily Examiner, a newspaper printed in the City and County of San Francisco, in accordance with Section 2 of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco," etc., approved March 24th, 1870.

In Board of Supervisors, San Francisco, December 18th, 1871.

Adopted by the following vote:

Ayes---Supervisors Menzies. Swain, Kenney, Goodwin, King, Forbes, Stony, Shrader, Barrett, Commins, Taylor.

Absent---Supervisor McCarthy.

John A. Russell, Clerk.

(Examiner, Wednesday Dec. 20, 1871 Vol. XIII- No. 146 p. 2 Col. 5.)

The Daily Examiner. San Francisco, Thursday Evening, January 25, 1872.

ORDER OF GRANT NO. 197, OUTSIDE LANDS.
(January 22, 1872.)

ORDER OF GRANT NO. 197. OUTSIDE LANDS. Heretofore P.J.White, Thomas Finegan, John Tenny, Vincent Bellman, Henry Echart, Henry Steinegger, J.J. Rey and Joseph Britton, presented to the Board of Supervisors their petitions each asking from this city and county, a grant for certain lands, as provided by the first section of an Act entitled "an Act to expedite the settlement of Land Titles in the City and County of San Francisco," etc., approved March 24th, 1870. The petitions so presented were referred to the Committee on Outside Lands, and the petitioners appeared before the Clerk of said Committee and made proofs of the matters alleged in their petitions, as required by the second section of said Act. Afterwards the said Committee duly considered the proofs produced and filed the same, together with their report thereon, with the Clerk of said Board. The said Committee in their said report recommended in each case that a grant be awarded as prayed for in the petitions therein, provided the petitioners shall, before receiving a deed, quit-claim and peaceably deliver the possession of all lands claimed by themreserved according to the provisions of said Act. Afterwards, on the 22nd day of Jan. 1872, said reports were submitted to said Board for approval, and it appeared to said Board that the respective claims of the several petitioners were well founded, whereupon the said reports were and are in all things approved.

Now Therefore the people of the City and County of San Francisco do ordain that grants of land be and the same are hereby adjudged and awarded to the said petitioners, severally, as follows, viz:

Outside
to
P. J. White.

Commencing on the northerly line of Twenty-fourth street 55 feet westerly from Shotwell street, running thence westerly on Twenty-fourth street 67 feet 6 inches, thence at right angles northerly 90 feet; thence at right angles easterly 67 feet 6 inches, thence at right angles southerly 90 feet to point of commencement; being portion of Mission Block 153.

To Thomas Finegan.

Commencing on the westerly line of Mission street 200 feet southerly from Twenty-second street, running thence southerly on Mission street 130 feet, thence at right angles westerly 125 feet, thence at right angles northerly 130 feet, thence at right angles easterly 125 feet to point of commencement - being portion of Mission Block 136.

To John Tenny.

Commencing at the southeasterly corner of Harrison and Twenty-fourth streets, running thence easterly on Twenty-fourth street 50 feet, thence at right angles southerly 104 feet, thence at right angles westerly 50 feet; thence at right angles northerly

104 feet to point of commencement - being portion of Mission Block 174.

To Vincent Bellman.

Commencing on the westerly line of Kentucky street 250 feet southerly from Sierra street, thence running southerly on Kentucky street 50 feet; thence at right angles westerly 100 feet; thence at right angles northerly 4 67/100 feet; thence at right angles westerly 100 feet to Tennessee street; thence northerly on Tennessee street 50 feet; thence at right angles easterly 100 feet; thence at right angles southerly 4 67/100 feet; thence at right angles easterly 100 feet to point of commencement - being portion of Potrero Block 393.

To Henry Echart.

Commencing on the westerly line of Missouri street 100 feet southerly from Colusa street; running thence southerly on Missouri street 50 feet; thence at right angles westerly 100 feet; thence at right angles northerly 50 feet; thence at right angles easterly 100 feet to point of commencement - being portion of Potrero Block 255,

also

Commencing on the westerly line of Texas street 100 feet northerly from Colusa street; running thence northerly on Texas street 50 feet; thence at right angles westerly 100 feet; thence at right angles southerly 50 feet; thence at right angles easterly 100 feet to point of commencement - being portion of Potrero Block 259,

also

Commencing on the easterly line of Iowa street 250 feet southerly from Yolo street, running thence southerly on Iowa street 50 feet; thence at right angles easterly 100 feet; thence at right angles northerly 50 feet; thence at right angles westerly 100 feet to point of commencement - being portion of Potrero Block 332.

To Henry Steinegger, J.J.Rey 7 Joseph Britton.

Commencing on the westerly line of Arkansas street 100 feet southerly from Yolo street; running thence southerly on Arkansas street 50 feet; thence at right angles westerly 100 feet; thence at right angles northerly 50 feet; thence at right angles easterly 100 feet to point of commencement - being portion of Potrero Block 217,

also

Commencing on the westerly line of Pennsylvania Avenue 350 feet southerly from Yolo street, running thence southerly on Pennsylvania Avenue 83 feet; thence at right angles westerly 100 feet; thence at right angles northerly 83 feet; thence at right angles easterly 100 feet to point of commencement - being portion of Potrero Block 296.

And the Clerk is hereby directed to publish notices of the aforesaid awards for three consecutive weeks in the Daily Examiner, a newspaper printed in the City and County of San Francisco,

in accordance with Section 2 of an Act entitled, "An Act to Expedite the settlement of Land Titles in the City and County of San Francisco," etc., approved March 24th, 1870.

In Board of Supervisors, San Francisco, January 22, 1872.

Adopted by the following vote:

Ayes- Supervisors Menzies, Swain, Kenney, McCarthy, Goodwin, King, Forbes, Stony, Shrader, Barrett, Commins, Taylor.

JNO. A. RUSSELL, Clerk.

The Daily Examiner, January 25, 1872, p.4 col.1, vol. XIV, No.21.

ORDER OF GRANT NO. 198 OUTSIDE LANDS.
(January 29, 1872)

Order of Grant No.198 - Outside Lands.

Heretofore John Treat presented to the Board of Supervisors his petition, asking for this City and County a grant for certain lands, as provided by the first section of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco," etc., approved March 24th, 1870. The petition so presented was referred to the Committee on Outside Lands and the petitioner appeared before the Clerk of said Committee and made proofs of the matters alleged in his petition, as required by the second section of said Act. Afterwards the said Committee duly considered the proofs produced and filed the same, together with their report thereon with the Clerk of said Board. The said Committee in their said report recommended in each case that a grant be awarded as prayed for in the petition therein, provided the petitioner shall, before receiving a deed quitclaim and peaceably deliver the possession of all lands claimed by him reserved according to the provisions of said Act.

Afterwards, on the 29th day of Jan. 1872, said report was submitted to said Board for approval, and it appeared to said Board that the claim of the petitioner was well founded, whereupon the said report was and is in all things approved.

Now, Therefore, the people of the City and County of San Francisco do ordain that grants of land be and the same are hereby adjudged and awarded to the said petitioner, as follows, viz:

To John Treat - for the undivided four-fifth portion of the following described land, to-wit:

Commencing at the northwesterly corner of J. street and Sixteenth avenue; thence northerly on Sixteenth Avenue 476 feet 5 inches; thence westerly 24o feet 6 inches to Seventeenth avenue; thence southerly 457 feet 5½ inches to J street; thence easterly 240 feet to point of commencement, being portion of Block 688.

also

Commencing at the northwesterly corner of J street and Seventeenth avenue; thence northerly on Seventeenth avenue 451 feet 11½ inches; thence westerly 240 feet 9 inches to Eighteenth avenue; thence southerly 433 feet 0½ inch to J street; thence easterly 240 feet to point of commencement, being portion of Block 689;

also

Commending at the northwesterly corner of J street and Eighteenth avenue; thence northerly on Eighteenth avenue 325 feet to School lot; thence westerly 240nfeet to Nineteenth avenue; thence southerly 225 feet to J street; thence easterly 240 feet to point of commencement, being portion of Block 690;

also

Commencing on the westerly line of Eighteenth avenue 375 feet northerly from J street; thence northerly 52 feet 6 inches thence westerly 240 feet 9 inches to Nineteenth avenue; thence southerly 33 feet 7 inches; thence easterly 240 feet to point of commencement, being portion of Block 690

also

Commencing at the northwesterly corner of J street and Twentieth avenue, thence northerly on Twentieth avenue 378 feet 7½ inches; thence westerly 240 feet 9 inches to Twenty-first avenue thence southerly 359 feet 8½ inches; thence easterly 240 feet to point of commencement, being portion of Block 692;

also

Commencing at the northwesterly corner of J street and Nineteenth avenue, thence northerly on Nineteenth avenue 403 feet 1 inch; thence westerly 240 feet 9 inches to Twentieth avenue; thence southerly 384 feet 2 inches; thence easterly 240 feet to point of commencement, being portion of Block 691;

also

Commencing at the northwesterly corner of J, street and Twenty-first avenue; thence westerly on J street 23 feet 11 inches thence northerly 355 feet, more or less; thence easterly 10 feet 9 inches, more or less; to Twenty-first avenue; thence southerly 354 feet 7½ inches to point of commencement, being portion of Block 693;

also

Commencing at the northwesterly corner of K street and Twenty-first avenue; thence northerly 600 feet to J street; thence westerly 29 feet 3 inches; thence southerly 601 feet; thence easterly 68 feet 6 inches to point of commencement, being portion of Block 748;

also

Block 749, bounded by J and K streets, Twentieth and Twenty-first avenues;

also

Block 750, bounded by J and K streets, Nineteenth and Twentieth avenues;

also

Block 751, bounded by J and K streets, Eighteenth and Nineteenth avenues;

also

Block 752, bounded by J and K streets, Seventeenth and Eighteenth avenues;

also

Block 753, bounded by J and K streets, Sixteenth and Seventeenth avenues;

also

Block 784, bounded by K and L streets, Sixteenth and Seventeenth avenues;

also

Block 849, bounded by L and M streets, Sixteenth and Seventeenth avenues;

also

Block 850, bounded by L and M streets, Fifteenth and Sixteenth avenues;

also

Block 851, bounded by L and M streets, Fourteenth and Fifteenth avenues;

also

Commencing at the northeasterly corner of M street and Fourteenth avenue; thence northerly on Fourteenth avenue 600 feet; thence easterly 129 feet 5 inches; thence south 0 degrees 30 minutes east 601 feet to M street; thence westerly 101 feet 10 inches to point of commencement, being portion of Block 852;

also

Block 874, bounded by M and N streets, Fourteenth and Fifteenth avenues;

also

Commencing on the northeasterly corner of N street and Fourteenth avenue; thence northerly 600 feet to M street; thence easterly 98 feet 3 inches; thence south 0 degrees 30 minutes east 601 feet to N street; thence westerly 70 feet 8 inches to point of commencement, being portion of Block 873;

also

Block 875, bounded by M and N streets, Fifteenth and Sixteenth avenues;

also

Block 876, bounded by M and N streets, Sixteenth and Seventeenth avenues;

also

Block 877, bounded by M and N streets, Seventeenth and Eighteenth avenues;

also

Block 940, bounded by N and O streets, Seventeenth and Eighteenth avenues;

also

Block 941, bounded by N and O streets, Sixteenth and Seventeenth avenues;

also

Commencing at the northeasterly corner of O street and Sixteenth avenue, thence northerly 600 feet; thence easterly 255 feet; thence southerly 320 feet 3½ inches; thence westerly 28 feet 8½ inches; thence southerly 171 feet 10½ inches; thence easterly 11 feet; thence southerly 106 feet 11 inches; thence westerly 255 feet to point of commencement, being portion of Block 942;

also

Commencing at the northeasterly corner of O street and Fifteenth avenue; thence easterly 255 feet to Fourteenth avenue thence northerly 600 feet to N street; thence westerly 255 feet; thence southerly 313 feet 1 inch; thence westerly 72 feet 9½ inches; thence southerly 171 feet 10½ inches; thence westerly 90 feet 6 inches to Fifteenth avenue; thence southerly 114 feet 1½ inches to the point of commencement, being portion of Block 943;

also

Commencing at the northeasterly corner of O street and Fourteenth avenue, thence northerly 600 feet to N street; thence easterly 67 feet 1 inch; thence south 0 degrees 30 minutes east 601 feet; thence westerly 39 feet 6 inches to point of commencement, being portion of Block 944;

also

Commencing at the southeasterly corner of O street and Fourteenth avenue; thence southerly on Fourteenth avenue 288 feet 11 inches; thence easterly 22 feet 10 inches; thence north 0 degrees 30 minutes west 290 feet 2 inches; thence westerly 35 feet 11 inches to point of commencement, being portion of Block 958;

also

Commencing at the southeasterly corner of O street and

Fifteenth avenue; thence southerly on Fifteenth avenue 273 feet 10 inches; thence easterly 255 feet 6 inches to Fourteenth avenue thence northerly 285 feet 8 inches; thence westerly 255 feet to point of commencement, being portion of Block 959;

also

Commencing at the southeasterly corner of O street and Sixteenth avenue; thence southerly on Sixteenth avenue 256 feet 10 inches; thence easterly 255 feet 6 inches to Fifteenth avenue; thence northerly 270 feet 7 inches; thence westerly 255 feet to point of commencement, being portion of Block 960;

also

Commencing at the southeasterly corner of O street and Seventeenth avenue; thence southerly on Seventeenth avenue 240 feet 2 inches; thence easterly 240 feet 6 inches to Sixteenth avenue; thence northerly 253 feet one inch; thence westerly 240 feet to point of commencement, being portion of Block 961;

also

Commencing at the southeasterly corner of O street and Eighteenth avenue; thence southerly on Eighteenth avenue 223 feet 5 inches; thence easterly 240 feet 6 inches to Seventeenth avenue; thence northerly 236 feet 4 inches to O street; thence westerly 24o feet to point of commencement, being portion of Block 962;

also

Commencing at the southeasterly corner of O street and Nineteenth avenue; thence southerly on Nineteenth avenue 107 feet 1 inch ; thence easterly 235 feet 3 inches; thence southerly 72 feet to Eighteenth avenue; thence northerly 155 feet 11 inches; thence westerly 240 feet to point of commencement, being portion of Block 963;

also

Commencing at the northeasterly corner of J street and Sixteenth avenue; thence northerly 481 feet 11 inches, more or less; thence easterly 105 feet, more or less; thence south 0 degrees 45 minutes west 500 feet, more or less to J street; thence westerly 55 feet, more or less, to point of commencement; being portion of Block 687;

also

Commencing at the northeasterly corner of L street and Fourteenth avenue; thence northerly on Fourteenth avenue 128 feet more or less; thence easterly 137 feet, more or less; thence south 0 degrees 30 minutes east 110 feet 6 inches; thence westerly 133 feet to point of commencement, being portion of Block 781;

also

Commencing at the southwesterly corner of K street and Eighteenth avenue; thence westerly 240 feet to Nineteenth avenue; thence southerly 225 feet to School lot; thence easterly 240 feet to Eighteenth avenue; thence northerly 225 feet to the point of commencement, being portion of Block 786;

also

Commencing at the northwesterly corner of L street and Seventeenth avenue; thence westerly on L street 165 feet 7 inches; thence southerly 341 feet 6 inches to Eighteenth avenue; thence southerly on Eighteenth avenue 286 feet 8 inches to M street; thence easterly 240 feet; thence northerly 600 feet to the point of commencement, being portion of Block 848;

also

Commencing at the southwesterly corner of M street and

Eighteenth avenue; thence westerly 5 feet 8 inches; thence southerly 230 feet, more or less to School lot; thence easterly 58 feet, more or less, to Eighteenth avenue; thence northerly 225 feet to point of commencement, being portion of Block 878;

also

Commencing at the northwesterly corner of N street and Eighteenth avenue; thence westerly 141 feet 9 inches; thence northerly 230 feet, more or less, to School lot; thence easterly 92 feet, more or less, to Eighteenth avenue; thence southerly 225 feet to point of commencement, being portion of Block 878;

also

Commencing at the southwesterly corner of N street and Eighteenth avenue; thence westerly 159 feet 5 inches; thence southerly 367 feet 11 inches to Nineteenth avenue; thence southerly on Nineteenth avenue 241 feet to O street; thence easterly 240 feet; thence northerly 600 feet to point of commencement; being portion of Block 939;

also

Commencing at the southwesterly corner of O street and Nineteenth avenue; thence westerly on O street 1 foot 10 inches; thence southerly 122 feet, more or less; thence easterly 30 feet more or less, to Nineteenth avenue; thence northerly 115 feet 2 inches to point of commencement, being portion of Block 964;

also

Commencing on the northwesterly corner of L street and Seventeenth avenue; thence northerly on Seventeenth avenue 600 feet to K street; thence westerly 240 feet to Eighteenth avenue; thence southerly on Eighteenth street 246 feet 11 inches; thence easterly 169 feet; thence southerly 351 feet 5 inches; thence easterly 148 feet to point of commencement, being portion of Block 785;

also

Commencing on the southeasterly corner of K street and Twentieth avenue; thence southerly 205 feet 7 inches; thence easterly 240 feet 6 inches to Nineteenth avenue; thence northerly 221 feet 7 inches to K street; thence westerly 240 feet to point of commencement , being portion of Block 787;

also

Commencing on the southeasterly corner of K street and Twenty-first avenue; thence southerly on Twenty-first avenue 184 feet 11 inches; thence easterly 240 feet 6 inches to Twentieth avenue; thence northerly 200 feet 11 inches to K street; thence westerly 240 feet to point of commencement, being portion of Block 788;

also

Commencing on the southwesterly corner of K street and Twenty-first avenue; thence westerly on K street 73 feet 9 inches thence southerly 178 feet 9 inches; thence easterly 86 feet 6 inches to Twenty-first avenue; thence northerly 180 feet 3 inches to point of commencement, being portion of Block 789;

also

Commencing at the southeasterly corner of J street and Sixteenth avenue; thence southerly on Sixteenth avenue 302 feet 02/100 feet; thence easterly 25 feet, more or less, thence north 0 degrees 45 minutes east 300 feet, more or less to J street;

thence westerly 45 feet, more or less, to point of commencement, being portion of Block 754;

also

Commencing at the northeasterly corner of L street and Fifteenth avenue; thence northerly on Fifteenth avenue 131 feet 4 inches; thence easterly 194 feet; thence northerly 12 feet, more or less; thence easterly 60 feet, more or less; thence southerly 132 feet, more or less, to L street; thence westerly 255 feet to point of commencement, being portion of Block 782;

also

Commencing on the northwasterly corner of L street and Sixteenth avenue; thence easterly 255 feet to Fifteenth avenue; thence northerly 134 feet 6 inches; thence westerly 225 feet; thence northerly 70 feet, more or less; thence westerly 38 feet, more or less, to Sixteenth avenue; thence southerly 225 feet to point of commencement, being portion of Block 783.

To John Treat, for the undivided 127/240th portion of the following described land, to-wit:

Block 879, bounded by M and N streets, Nineteenth and Twentieth avenues;

also

Block 880, bounded by M and N streets, Nineteenth and Twentieth avenues;

also

Commencing at the northwesterly corner of N street and Twenty-first avenue; thence northerly 600 feet to M street; thence westerly 162 feet 10 inches; thence southerly 601 feet to N street thence easterly 202 feet 2 inches to point of commencement, being portion of Block 881;

also

Commencing at the northwesterly corner of O street and Twenty-first avenue; thence northerly on Twenty-first avenue 285 feet; thence westerly 120 feet; thence northerly 30 feet; thence easterly 120 feet to Twenty-first avenue; thence northerly 285 feet to N street; thence westerly 240 feet to Twenty-second avenue thence southerly 600 feet to O street; thence easterly 240 feet to point of commencement, being portion of Block 936;

also

Block 937, bounded by N and O streets, Twentieth and Twenty-first avenues;

also

Commencing at the southeasterly corner of O street and Twentieth avenue; thence westerly on O street 240 feet to Twenty-first avenue; thence southerly 173 feet 11 inches; thence easterly 240 feet 6 inches to Twentieth avenue; thence northerly 186 feet 3 inches to point of commencement, being portion of Block 965;

also

Block 938, bounded by N and O streets, Nineteenth and Twentieth avenues;

also

Commencing at the southeasterly corner of O street and Twenty-second ~~street~~ avenue; thence easterly on O street 240 feet

to Twenty-first avenue; thence southerly 169 feet 11 inches; thence westerly 240 feet 6 inches to Twenty-second ~~street~~ avenue; thence northerly 156 feet 11 inches to point of commencement, being portion of Block 966;

also

Commencing at the northeasterly corner of M street and Nineteenth avenue; thence northerly on Nineteenth avenue 526 feet 7 inches; thence easterly 240 feet 6 inches to Eighteenth avenue; thence southerly 510 feet 7 icnhes to M street; thence westerly 240 feet to point of commencement, being portion of Block 847;

also

Commencing at the easterly line of Nineteenth avenue 94 feet 1 inch southerly from L street; thence southerly on Nineteenth avenue 219 feet 4 inches; thence northerly 241 feet 3 inches; thence westerly 54 feet 8 inches to point of commencement, being portion of Block 848;

also

Commencing on the southeasterly corner of M street and Nineteenth avenue; thence easterly on M street 234 feet 4 inches; thence southerly 230 feet, more or less, to School lot; thence westerly 182 feet, more or less, to Nineteenth avenue; thence northerly 22 5 feet to point of commencement, being portion of Block 878;

also

Commencing at the northeasterly corner of N street and Nineteenth avenue; thence easterly on N street 98 feet 3 inches; thence northerly 230 feet, more or less, to School lot; thence westerly 148 feet, more or less, to Nineteenth avenue; thence southerly 225 feet to point of commencement, being portion of Block 878;

also

Commencing on the southeasterly corner of N street and Nineteenth avenue; thence easterly on N street 80 feet 7 inches; thence southerly 367 feet 11 inches to Nineteenth avenue; thence northerly 359 feet to point of commencement, being portion of Block 939;

also

Commencing on the southeasterly corner of O street and Twentieth avenue; thence southerly on Twentieth avenue 190 feet; thence easterly 73 feet 6 inches; thence northerly 61 feet 5 inches; thence easterly 145 feet, more or less; thence northerly 122 feet, more or less, to O street; thence westerly 238 feet 2 inches to point of commencement, being portion of Block 964;

also

Commencingon the northwesterly corner of M street and Twenty-first avenue; thence westerly on M street 157 feet 8 inches; thence northerly 581 feet, more or less; thence easterly 120 feet more or less, to Twenty-first avenue; thence southerly 572 feet 7 inches to point of commencemetn, being portion of Block 844;

also

Commencing at the northeasterly corner of M street and Twenty-first avenue; thence northerly on Twenty-first avenue 567 feet 11 inches; thence easterly 240 feet 6 inches to Twentieth avenue; thence southerly 551 feet 11 inches to M street; thence westerly 240 feet to point of commencement, being portion of Block 845;

also

Commencing at the northeasterly corner of M street and Twentieth avenue; thence easterly on M street 240 feet to Nineteenth avenue; thence northerly on Nineteenth avenue 531 feet 3 inches; thence westerly 240 feet 6 inches to Twentieth avenue thence southerly 547 feet 3 inches to the point of commencement, being portion of Block 846,

To John Treat, for the undivided 7/240th portion of the following described land, to-wit:

Commencing at the northwesterly corner of L street and Eighteenth avenue; thence westerly on L street 240 feet to Nineteenth avenue; thence northerly 225 feet to School lot; thence easterly 240 feet to Eighteenth avenue; thence southerly 225 feet to point of commencement, being portion of Block 786;

also

Commencing at the southerly corner of L street and Nineteenth avenue; thence southerly 73 feet 5 inches; thence easterly 240 feet 6 inches; thence northerly 89 feet 5 inches to L street; thence westerly 240 feet to point of commencement, being portion of Block 847;

also

Commencing at the southeasterly corner of L street and Eighteenth avenue; thence easterly on L street 74 feet 5 inches; thence southerly 99 feet 8 inches; thence westerly 54 feet 8 inches to Eighteenth avenue; thence northerly 94 feet 1 inch to point of commencement being portion of Block 848;

also

Commencing at the northeasterly corner of L street and Eighteenth avenue; thence easterly on L street 92 feet; thence northerly 251 feet 5 inches; thence westerly 169 feet to Eighteenth avenue; thence southerly 353 feet 1 inch to the point of commencement, being portion of Block 785;

also

Commencing on the northeasterly corner of L street and Twentieth avenue; thence easterly on L street 240 feet to Nineteenth avenue; thence northerly 378 feet 5 inches; thence westerly 24o feet to Twentieth avenue; thence southerly 394 feet 5 inches to point of commencement, being portion of Block 787;

also

Commencing on the northeasterly corner of L street and Twenty-first avenue; thence easterly 240 feet to Twentieth avenue; thence northerly on Twentieth avenue 399 feet 1 inch; thence westerly 240 feet 6 inches to Twenty-first avenue; thencessouth-erly 415 feet 1 inch to point of commencement, being portion of Block 788;

also

Commencing at the northwesterly corner of L street and Twenty-first avenue; thence westerly on L street 113 feet 1 inch; thence northerly 422 feet 3 inches; thence easterly 86 feet 6 inches to Twenty-first avenue; thence southerly 419 feet 9 inches to pointof commencement, being portion of Block 789;

also

Commencing at the southwesterly corner of L street and Twenty-first avenue; thence southetly on Twenty-first avenue 27 feet 5 inches; thence westerly 120 feet, more or less; thence

northerly 20 feet, more or less, to L street; thence easterly 118 feet 4 inches to point of commencement, being portion of Block 844;

also

Commencing at the southeasterly corner of L street and Twenty-first avenue; thence southerly on Twenty-first avenue 32 feet 1 inch; thence easterly 240 feet 6 inches to Twentieth avenue; thence northerly 40 feet 1 inch to L street; thence westerly 240 feet to point of commencement, being portion of Block 845;

also

Commencing at the southeasterly corner of L street and Twentieth avenue; thence southerly on Twentieth avenue 52 feet 9 inches; thence easterly 240nfeet 6 inches to Nineteenth avenue; thence northerly 68 feet 9 inches to L street; thence westerly 240 feet to point of commencement, being portion of Block 846;

To John Treat - for the undivided 95/100th portion of the following descrived land, to-wit:

Commencing on the westerly linenof Twenty-third avenue 63 feet southerly from O street; thence southerly on Twenty-third avenue 73 feet; thence westerly 125 feet, more or less; thence northerly 75 feet, more or less; thence easterly 115 feet, more or less to point of commencement, being portion of block 968.

And the Clerk is hereby directed to publish notices of the aforesaid awards for three consecutive weeks in the Daily Examiner a newspaper printed in the City and County of San Francisco in accordance with Section 2 of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco," etc., approved March 24thm 1870.

In Board of Supervisors, San Francisco, January 29th, 1872.

Adopted by the following vote:

Ayes—Supervisors Menzies, Swain, Kenney, Goodwin, King, Forbes, Stony, Shrader, Barrett, Commins, Taylor.

Absent—Supervisor McCarthy.

John A. Russell, Clerk.

(The Daily Examiner, February 3, 1872. p.1, col.7,8,9, Vol.XIV, No.29).

ORDER OF GRANT NO. 200, INSIDE AND OUTSIDE LANDS.
(March 11, 1872)

Order of Grant No. 2 0. (200)
Inside and Outside Lands.

Heretofore Frank Livingston, John Woolsey, John Rafferty and Sven Abel Eklurd presented to the Board of Supervisors their petitions each asking from this city and county a grant for certain lands, as provided by the first section of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco," etc., approved March 24th, 1870. The petitions so presented were referred to the Committee on Outside Lands, and the petitioners appeared before the Clerk of said Committee and made proofs of the matters alleged in their petitions, as required by the second section of said Act. Afterwards the said Committee duly considered the proofs produced and filed the same, together with their report thereon with the Clerk of said Board. The said Committee in their said report recommended in each case that abgrant be awarded as prayed for in the petition therein, provided the petitoners shall, before receiving a deed, quit-claim and peaceably deliver the possession of all lands claimed by them reserved according to the provisions of said Act.

Afterwards, on the 11th day of March, 1872, said reports were submitted to said Board for approval and it appeared to said Board that the claims of the petitioners were well founded, whereupon the said reports are in all things approved.

NOW, THEREFORE, the people of the city and county of San Francisco do ordain that grants of land be and the same are hereby adjudged and awarded to the said petitioners, severally as follows, viz:

INSIDE.

To Frank Livingston.

Commencing at the northwesterly corner of Butte and Iowa streets; running thence northerly on Iowa street 135 feet more or less; thence southerly 140 feet more or less, to Butte street; thence easterly 45 feet to point of commencement, being portion of Potrero Block 317;

also

Commencing at the northwesterly corner of Napa and Iowa streets; running thence northerly on Iowa street 400 feet to Butte street; thence westerly on Butte street 70 feet, more or less; thence southwesterly 410 feet, more or less to Pennsylvania avenue thence southerly on Pennsylvania avenue 5 feet, more or less, to Napa street; thence easterly on Napa street 200 feet to point of commencement, being portion of Potrero Block 318;

also

Commencing at the southwesterly corner of Napa street and Iowa street; running thence southerly on Iowa street 148 feet 0½ inch to Charter line of 1851; thence southwesterly on Charter line to easterly line of Pennsylvania avenue; thence northerly on Pennsylvania avenue 165 feet 11 inches to Napa street; thence easterly on Napa street 200 feet to point of commencement, being portion of Potrero Block 319;

also

Commencing at the southeasterly corner of Iowa and Napa streets; running thence southerly on Iowa street 142 feet 4 inches more or less to Charter line of 1851; thence northeasterly along Charter line to westerly line of Indiana street; thence northerly on Indiana street 124 feet 8½ inches to Napa street; thence westerly on Napa street 200 feet to point of commencement, being portion of Potrero Block 338;

also

Potrero Block 339 entire, bounded by Butte, Indiana, Napa and Iowa streets;

also

Potrero Block 340 entire, bounded by Solano, Indiana, Butte and Iowa streets;

also

Commencing at the northwesterly corner of Solano street and Indiana street; running thence northerly on Indiana street 75 feet, more or less; thence northwesterly 135 feet, more or less; thence southwesterly 105 feet, more or less, to Solano street; thence easterly on Solano street 165 feet, more or less, to point of commencement, being portionnof Potrero Block 341;

also

Commencing at the northwesterly corner of Mariposa and Minnesota streets; running thence northerly on Minnesota street 400 feet to Santa Clara street; thence westerly on Santa Clara street 22 feet, more or less; thence southwesterly 195 feet, more or less; thence southwesterly 235 feet, more or less, to Mariposa street; thence easterly on Mariposa street 165 feet, more or less to point of commencement, being portion of Potrero Block 351;

also

Commencing at the southwesterly corner of Mariposa street and Minnesota street; running thence southerly on Minnesota street 400 feet to Solano street; thence westerly on Solano street 200 feet to Indiana street; thence northerly on Indiana street 280 feet, more or less; thence northeasterly 120 feet, more or less, to Mariposa street; thence easterly on Mariposa street 180 feet, more or less, to point of commencement, being portion of Potrero Block 352;

also

Potrero Block 353 entire, bounded by Solano, Minnesota, Butte and Indiana streets;

also

Commencing at the southeasterly corner of Indiana and Butte streets; running thence easterly on Butte street 200 feet to Minnesota street; thence southerly on Minnesota street 225 feet; thence southwesterly on Napa street 142 feet to Indiana street; thence northerly on Indiana street 400 feet to point of commencement, being portion of Potrero Block 354;

also

Commencing at the southeasterly corner of Napa street and Indiana street; running thence easterly on Napa street 122 feet; thence southwesterly 115 feet, more or less, to Charter line of 1851; thence southwesterly along Charter line 85 feet, more or less to Indiana street; thence northerly on Indiana street 119 feet 6½ inches to point of commencement, being portion of Potrero Block 355;

also

Commencing at the northeasterly corner of Solano street and Minnesota street; running thence northerly on Minnesota street 400 feet to Mariposa street; thence easterly on Maripos street 101 feet; thence southwesterly to Solano street; thence westerly on Solano street 15 feet to point of commencement, being portion of Potrero Block 377;

also

Commencing at the northeast corner of Mariposa and Minnesota

streets; running thence northerly on Minnesota street 400 feet to Santa Clara street; thence easterly on Santa Clara street 200 feet to Tennessee street; thence southerly on Tennessee street 57 feet 6 inches; thence southwesterly to Mariposa street; thence westerly on Mariposa street 115 feet 3 inches to point of commencement, being portion of Potrero Block 378;

also

Commencing at the northeast corner of Santa Clara and Minnesota streets; thence northerly on Minnesota street 115 feet, more or less; thence northeasterly 320 feet, more or less, to Center street; thence easterly on Center street 40 feet, more or less, to Tennessee street; thence southerly on Tennessee street 400 feet to Santa Clara street; thence westerly on Santa Clara street 200 feet to point of commencement, being portion of Potrero Block 379;

also

Commencing at the southeasterly corner of Center and Tennessee streets; running thence southerly on Tennessee street 82 feet 3½ inches; thence northwesterly 70 feet, more or less, to Center street; thence westerly on Center street 42 feet, more or less, to point of commencement, being portion of Potrero Block 386.

OUTSIDE

To John Doolley.

Commencing at a point on the westerly line of Potrero Avenue 275 feet southerly from Twenty-second street; running thence southerly on Potrero Avenue 25 feet; thence at right angles westerly 100 feet; thence at right angles northerly 25 feet; thence at right angles easterly 100 feet to point of commencement, being portion of Mission Block 148.

To John Rafferty,

Commencing at a point on the westerly line of Potrero Avenue 150 feet southerly from Twenty-second street; running thence southerly on Potrero Avenue 25 feet; thence at right angles westerly 100 feet; thence at right angles northerly 25 feet; thence at right angles easterly 100 feet to point of commencement, being portion of Mission Block 148.

To Sven Eklund.

Commencing on the easterly line of Hampshire street 250 feet southerly from Twenty-second street; thence southerly on Hampshire street 25 feet; thence at right angles easterly 100 feet; thence at right angles northerly 25 feet; thence at right angles westerly 100 feet to point of commencement, being portion of Mission Block 148.

And the Clerk is hereby directed to publish notices of the aforesaid awards for three consecutive weeks in the Daily Examiner a paper printed in the city and county of San Francisco, in accordance with Section 2 of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco," etc, approved March 24th, 1870.

In Board of Supervisors, San Francisco, March 11th, 1872.

Adopted by the following vote:
Ayes—Supervisors Menzies, Swain, Kenney, McCarthy, Goodwin, King, Forbes, Stony, Shrader, Bennett, Commins, Taylor.

JOHN A. RUSSELL, Clerk.

ORDER OF GRANT NO. 201, April 8, 1872.

Order of Grant No. 201 - Outside Lands and Inside and Outside Lands.

Heretofore Michael Kenny, Lains Brunner, John Stock, William H. Hamden, Point Lobos Avenue and Park Homestead Association, by D. C. Van Nostrand, President, and Alexander C. Erkson, presented to the Board of Supervisors their petitions, each asking from this city and county a grant for certain lands, as provided by the first section of an act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco," etc., approved March 24th, 1870. The petitions so presented were referred to the Committee on Outside Lands and the petitioners appeared before the Clerk of said Committee and made proofs of the matters alleged in their petitions, as required by the second section of said Act. Afterwards the said Committee duly considered the proofs produced and filed the same, together with their report thereon, with Clerk of said Board/ The said Committee in their said report recommended in eachcase that a grant be awarded as prayed for in the petition therein, provided the petitioners shall, before receiving a deed, quit claim and peaceably deliver the possession of the lands claimed by them reserved according to the provisions of said Act. Afterwards, on the 8th day of April, 1872, said reports were submitted to said Board for approval and it appeared to said Board that the respective claims of the several petitioners were well founded, whereupon the said reports were and are in all things approved.

Now, therefore the prople of the City and County of San Francisco do ordain that grants of land be and the same are hereby adjudged and awarded to the said petitioners, severally, as follows, viz:

OUTSIDE

To Michael Kenny.

Commencing on the northerly line of Post street 110 feet westerly from the northwesterly corner of Post and Broderick streets; thence westerly on Post street 55 feet; thence at right angles northerly 137 feet 6 inches; thence easterly 55 feet thence southerly 137 feet 6 inches to point of commencement. Being portion of Block 537.

To Louis Brunner.

Commencing on the westerly line of Arkansas street 433 feet southerly from Colusa street; thence southerly on Arkansas street 83 feet; thence at right angles westerly 100 feet; thence ar right angles northerly 83 feet; thence easterly 100 feet to point of commencement. Being portion of Potrero Block 220.

also

Commencing on the easterly line of Texas street 50 feet southerly from Colusa street; thence southerly 50 feet on Texas street; thence at right angles easterly 100 feet; thence northerly 50 feet; thence westerly 100 feet to point of commencement. Being portion of Potrero Block 291.

To John Stock.

Commencing on the easterly line of Texas street 100 feet southerly from Colusa street; thence southerly on Texas street 50 feet; thence at right angles easterly 100 feet; thence at right angles northerly 50 feet; thence westerly 100 feet to point of commencement. Being portion of Potrero Block 291.

To Wm. H. Hamden.

Commencing on the southerly line of Yolo street 25 feet westerly from Colusa street; thence westerly on Colusa street 75 feet; thence at right angles southerly 100 feet; thence at right angles easterly 75 feet; thence northerly 100 feet to point of commencemtn. Being portion of Potrero Block 154.

To Point Lobos Avenue and Park Homestead, by D.C.VanNostrand, President.

Commencing on the southwesterly corner of Clement street and Forty-second avenue; running thence westerly on Clement street 139 feet; thence souther 80 degrees 29 minutes west 432 feet; thence south 83 degrees 30 minutes east 175 feet; thence north 9 degrees 30 minutes east 263 feet 4 inches to Forty-second avenue; thence northmon Forty-second avenue 194 feet 8 inches to point of commencement, being portion of Block 223.

also

Commencing on the northwesterly corner of Point Lobos and Forty-second avenues; running thence northerly on Forty-second avenue 14 feet; thence north 83 degrees 30 minutes west 176 feet 5 inches; thence south 10 degrees 40 minutes west 44 feet 9minches to Point Lobos avenue; thence easterly on Point Lobos avenue175 feet to point of commencement. Being portion of Block 223.

also

Commencing on the southwesterly corner of A street and Forty-third avenue; running thence westerly on A street 55 feet 7 inches; thence north 10 degrees 40 minutes east 230 feet to Forty-third avenue; thence southerly on Forty-third avenue 223 feet 1 inch to point of commencement. Being portion of Block 241.

also

Commencing at the northeasterly corner of A street and Forty-third avenue; running thence northerly on Forty-third avenue 225 feet; thence at right angles easterly 240 feet to Forty-second avenue; thence southerly on Forty-second avenue 116 feet 8 inches; thence south 10 degrees 40 minutes west 111 feet 7 inches to A street; thence westerly on A street 212 feet 11 inches to point of commencement. Being portion of Block 242.

also

Commencing at the southwesterly corner of Point Lobos Avenue and Forty-second avenue running thence westerly on Point Lobos avenue 216 feet 2 inches; thence south 10 degrees 4 minutes west +98 (or 93) feet 5 inches to Forty-third avenue; thence southerly on Forty-third avenue 129 feet 6 inches; thence at right angles easterly 240 feet to Forty-second avenue; thence northerly on Forty-second avenue 225 feet to point of commencement. Being portion of Block 242.

also

Commencing at the southeasterly corner of Point Lobos and Forty-second avenues; thence running ~~thex~~ easterly on Point Lobos avenue 52 feet 11 inches; thence south 10 degrees 40 minutes west 218 feet 2 inches to Forty-second avenue; thence northerly on Forty-second avenue 211 feet 8 inches to point of commencement. Being portion of Block 243.

+(98 or 93--print broken)

Commencing at the southeasterly corner of A street and Forty-third avenue; running thence southerly on Forty-third avenue 414 feet; thence south 63 degrees 30 minutes east 99 feet; thence north 10 degrees 40 minutes east to A street; thence westerly on A street 192 feet 11 inches to point of commencement, being portion of Block 325.

also

Commencing at the southwesterly corner of A street and Forty-third avenue; running thence southerly on Forty-third avenue 379 feet 9 inches; thence north 6 3 degrees 30 minutes west 114 feet 2 inches; thence due west 53 feet 6 inches, more or less; thence north 10 degrees 40 minutes east to Astreet; thence easterly on A street 75 feet 6 inches to point of commencement, being portion of Block 326;

INSIDE AND OUTSIDE.
To Alexander C. Erkson.

Commencing at the northwesterly corner of Post and Devisadero streets; thence westerly on northerly line of Post street 206 feet 3 inches; thence northerly at right angles 162 feet, more or less; thence easterly parallel with Post street 206 feet 3 inchesnto Devisadero street, thence southerly 162 feet to point of commencement, being portion of Block 504.

And the Clerk is hereby directed to publish notices of the aforesaid awards for three consecutive weeks in the Daily Examiner a newspaper printed in the city and county of San Francisco, in accordance with Section 2 of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco, etc., approved March 24th, 1870.

In Board of Supervisors, San Francisco, April 8, 1872.

Adopted by the following vote:

Ayes--Supervisors Menzies, McCarthy, Goodwin, King, Forbes, Story, Shrader, Barrett, Commins, Taylor..

Absent-Supervisors Swain, Kenney.

JOHN A. RUSSELL, Clerk.

The Daily Examiner, April 11, 1872. Vol.XIV, No.87,p.1,Col.9.

ORDER OF GRANT NO. 202, May 6, 1872.

Order of Grant No. 202.- Outside Lands.

Heretofore Paul Rousset presented to Board of Supervisors his petition asking from this city and county a grant for certain lands, as provided for by the first section of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco," etc., approved March 24th, 1870. The petition so presented was referred to the Committee on Outside Lands and the petitioner appeared before the Clerk of said Committee and made proofs of the matters alleged in his petition, as required by the second section of said Act. Afterwards the said Committee duly considered the proofs and filed the same, together with their report thereon, with the Clerk of said Board. The said Committee, in their said report recommended in this case that a grant be awarded as prayed for in the petition therein, provided the petitioner shall, before receiving a deed, quit-claim and peaceably deliver the possession of all lands claimed by him reserved according to the provisions of said Act. Afterwards, on the 6th day of May, 1872 said report was submitted to said Board for approval and it appeared to said Board that the claim of the petitioner was well founded; whereupon the said report was and is in all things approved.

Now, Therefore, the people of the city and county of San Francisco do ordain that grants of land be and the same are hereby adjudged and awarded to the said petitioner as follows, viz:

To Paul Rousset, the undivided 5/144 portion of the following described land:

Commencing at the southwesterly corner of R street and Forty-eighth avenue; running thence southerly on Forty-eighth avenue 151 feet 11 inches; thence westerly 40 feet, more or less, to line of Great Highway; thence northerly on Great Highway 150 feet, more or less, to R street; thence easterly on R street 51 feet, more or less, to commencement - Being portion of Block 1075.

also

Commencing at the southeasterly corner of R street and Forty-eighth avenue; running thence southerly on Forty-eighth avenue 156 feet 7 inches; thence due easterly 240 feet 6 inches to Forty-seventh avenue; thence northerly on said avenue 172 feet 7 inches to R street; thence westerly on R street 240 feet to commencement - being portion of Block 1075.

also

Commencing at the southeasterly corner of R street and Forty-seventh avenue; running thence southerly on Forty-seventh avenue 179 feet 4 inches; thence due easterly 240 feet 6 inches to Forty-sixth avenue; thence northerly on said avenue 185 feet 8 inches; thence westerly 240 feet 2 inches to commencement - being portion of Block 1076.

also

Commencing at a point on the easterly line of Forty-sixth avenue distant 10 feet 1 inch southerly from R street; thence southerly on Forty-sixth avenue 187 feet 11 inches; thence due easterly 240 feet 6 inches to Forty-fifth avenue; thence northerly on said avenue 195 feet 7 inches; thence westerly 240 feet 2 inches to commencement - being portion of Block 1077.

also

Commencing at a pointmon the easterly line of Forty-fifth avenue, distant 20 feet 11 inches southerly from R street; thence southerly on Forty-fifth avenue 197 feet 9 inches; thence due easterly 240 feet 6 inches to Forty-fourth avenue; thence westerly on said avenue 205 feet 5 inches; thence westerly 540 feet 2 inches to commencement. Being portion of Block No. 1078.

also

Commencing at a point on the line of Forty-fourth avenue distant 31 feet 9 inches southerly from R street; thence southerly on Forty-fourth avenue 207 feet 8 inches; thence due easterly 240 feet 6 inches to Forty-third avenue; thence northerly on said avenue 215 feet 4 inches; thence westerly 240 feet 2 inches to commencement. Being portion of Block 1079.

also

Commencing at a point on the westerly line of Forty-second avenue distant 50 feet 11 inches southerly from R street; thence westerly 240 feet 2 inches to Forty-third Avenue; thence southerly on said avenue 217 feet 6 inches; thence due easterly 240 feet 6 inches to Forty-second avenue; thence northerly on said avenue 225 feet 2 inches to commencement. Being portion of Block 1080.

also

Commencing at a point on the westerly line of Forty-first Avenue, distant 61 feet 8 inches southerly from R street; thence westerly 240 feet 2 inches to Forty-second Avenue; thence southerly on said avenue 227 feet 5 inches; thence due easterly 240 feet 6 inches to Forty-first avenue; thence northerly on said avenue 235 feet to commencement. Being portion of Block 1081.

also

Commencing at a point on the westerly line of Fortieth Avenue distant 72 feet 7 inches southerly from R street; thence westerly 240 feet 2 inches to Forty-first Avenue; thence southerly on said avenue 237 feet 3 inches; thence due easterly 240 feet 6 inches to Fortieth avenue; thence westerly on said Avenue 244 feet 10 inches to commencement, being portion of Block 1082.

also

Commending at a point on the westerly line of Thirty-ninth Avenue, distant 83 feet 4 inches southerly from R street; thence westerly 240 feet 2 inches to Fortieth Avenue; thence southerly on said avenue 247 feet 1½ inches; thence due easterly 240 feet 6 inches to Thirty-ninth Avenue; thence northerly on said avenue 254 feet 9½ inches to commencement. Being portion of Block 1083.

also

Commencing at a point on the westerly line of Thirty-eighth Avenue, distant 94 feet 3 inches southerly from R street; thence westerly 240 feet 2 inches to Thirty-ninth Avenue; thence southerly on said avenue 256 feet 11 inches; thence due easterly 240 feet 6 inches to Thirtyeighth avenue; thence northerly on said avenue 264 feet 6 inches to commencement. Being portion of Block 1084.

also

Commencing at a point on the westerly line of Thirty-seventh Avenue, distant 105 feet 1 inch southerly from R street, thence westerly 240 feet 2 inches to Thirty-eighth Avenue; thence southerly on said Avenue 266 feet 10 inches; thence due easterly 240 feet 6 inches to Thirty-eighth Avenue; thence northerly on said avenue 274 feet 5 inches to point of commencement. Being portion of Block 1085.

also

Commencing at a point on the westerly line of Thirty-sixth avenue, distant 115 feet 10 inches southerly from R street; thence westerly 240 feet 2 inches to Thirty-seventh avenue; thence southerly on said avenue 276 feet 8 inches; thence due easterly 240 feet 6 inches to Thirty-seventh avenue; thence northerly on said avenue 284 feet 4 inches to commencement. Being portion of Block 1086.

also

Commencing at a point on the westerly line of Thirty-fifth avenue, distant 126 feet 8 inches southerly from R street; thence westerly 240 feet 2 inches to Thirty-sixth avenue; thence southerly on said avenue 286 feet 6½ inches; thence due easterly 240 feet 6 inches to Thirty-fifth avenue; thence northerly on said avenue 294 feet 2½ inches to commencement. Being portion of Block 1087.

also

Commencing at a point on the westerly line of Thirty-fourth avenue, distant 137 feet 6 inches southerly from R street; thence westerly 240 feet 2 inches to Thirty-fifth avenue; thence southerly on said avenue 296 feet 5 inches; thence due easterly 240 feet 6 inches to Thirty-fourth avenue; thence northerly on said avenue 304 feet to commencement. Being portion of Block 1088.

also

Commencing at a point on the easterly line of Thirty-fourth avenue, distant 140 feet southerly from R street; thence southerly on Thirty-fourth avenue 306 feet 3 inches; thence easterly 125 feet, more or less; thence northerly 310 feet, more or less; thence westerly 147 feet, more or less, to commencement. Being portion of Block 1089.

also

Commencing at a point on the westerly line of Thirty-second Avenue, distant 159 feet 2 inches southerly from R street; thence westerly 187 feet, more or less; thence southerly 316 feet 2 inches; thence due easterly 208 feet, more or less to Thirty-second avenue; thence northerly on said avenue 323 feet 9 inches to commencement. Being portion of Block 1090.

also

Commencing at a point on the westerly line of Forty-first avenue, distant 170 feet southerly from R street; thence westerly 250 feet 2 inches to Thirty-second Avenue; thence southerly on said avenue 326 feet 5 inches; thence due easterly 240 feet 6 inches to Twenty-first Avenue; thence northerly on said avenue 333 feet 8 inches to commencement. Being portion of Block 1091.

also

Commencing at the northeasterly corner of N street and Twenty second avenue; thence northerly on Twenty-second avenue 600 feet to M street; thence easterly on M street 77 feet 2 inches; thence southerly 601 feet to N street; thence westerly on N street 37 feet 10 inches to commencement. Being portion of Block 881.

also

Commencing atthe northeasterly corner of M street and Twenty-second Avenue; thence northerly on Twenty-second Avenue 588 feet 7 inches; thence easterly 121 feet 8 inches; thence southerly 581 feet, more or less; to M street; thence westerly on M street 82 feet 4 inches to point of commencement. Being portion of Bloc k 844.

To Paul Rousset - The undivided 383-1440th portion of the following described land:

Commencing at the southwesterly corner of Q street and Thirtieth avenue; thence westerly on O street 106 feet; thence southerly 225 feet, more or less to School Reservation; thence easterly 120 feet, more or less, to Thirtieth avenue; thence northerly 225 feet to point of commencement. Being portion of Block 975.

also

Commencing at the northwesterly corner of P street and Thirtieth avenue; thence westerly on P street 140 feet 4 inches; thence northerly 225 feet, more or less, to School Reservation; thence easterly 130 feet, more or less, to Thirtieth avenue; thence southerly 225 feet to point of commencement. Being portion of Block 975.

also

Block 974 bounded by O and P streets, Twenty-ninth and Thirtieth avenues.

also

Block 973, bounded by O and P streets, Twenty-eighth and Twenty-ninth avenues.

also

Commencing at the southeasterly corner of O street and Twenty-eighth avenue 409 feet 10 inches; thence northerly 410 feet 10 inches to O street; thence westerly 28 feet to point of commencement. Being portion of Block 972.

also

Commencing at the northwesterly corner of P street and Twenty-fifth avenue; thence northerly on Twenty-fifth avenue 578 feet 4 inches; thence westerly 142 feet 8 inches; thence southerly 593 feet 5 inches to P street; thence easterly 184 feet 3 inches to point of commencement. Being portion of Block 970.

also

Commencing at the northeasterly corner of P street and Twenty-fifth avenue; thence easterly on P street 240 feet to Twenty-fourth avenue; thence northerly on Twenty-fourth avenue 225 feet to School lot; thence westerly 240 feet to Twenty-fifth avenue; thence southerly 225 feet to point of commencement. Being portion of Block 969.

also

Commencing on the easterly line of Twenty-fifth avenue 26 feet 4 inches southerly from O street; thence southerly on Twenty-fifth avenue 198 feet 8 inches to School lot; thence easterly 240 feet to Twenty-fourth avenue; thence northerly on Twenty-fourth avenue 182 feet 8 inches; thence westerly 240 feet 6 inches to point of commencement. Being portion of Block 969.

also

Commencing on the easterly line of Twenty-third avenue 67 feet 8 inches southerly from O street; thence southerly 71 feet 2 inches; thence easterly 240 feet 4 inches to Twenty-second avenue; thence northerly on Twenty-second avenue 69 feet 4 inches; thence westerly 240 feet 6 inches to point of commencement. Being portion of Block 967.

also

Block 1013 bounded by P and Q streets and Twenty-ninth and Thirtieth avenues.

also

Block 1014 bounded by P and Q streets and Twenty-eighth and Twenty-ninth avenues.

also

Commencing at the northwesterly corner of Q street and Twenty-fifth avenue; thence westerly on Q street 231 feet 7 inches thence northerly 600 feet 11 inches to P street; thence easterly on P street 189 feet 6 inches to Twenty-fifth avenue; thence southerly 600 feet to point of commencement. Being portion of Block 1017.

also

Block 1018 bounded by P and Q streets and Twenty-fourth and Twenty-fifth avenues.

also

Commencing at the northeasterly corner of Q street and Twenty-fourth avenue; thence easterly on Q street 36 feet 8 inches; thence northerly 600 feet 10 inches to P street; thence westerly on P street 69 feet 4 inches to Twenty-fourth avenue; thence southerly 60 feet to point of commencement. Being portion of Block 1019.

also

Commencing at the northeasterly corner of R street and Twenty-fifth avenue; thence easterly 240 feet to Twenty-fourth avenue; thence northerly on Twenty-fourth avenue 225 feet to School lot; thence westerly 240 feet to Twenty-fifth avenue; thence southerly on Twenty-fifth avenue 225 feet to point of commencement. Being portion of Block 1050.

also

Commencing at the southeasterly corner of Q street and Twenty fifth avenue; thence easterly 240 feet to Twenty-fourth avenue; thence southerly 225 feet to School lot; thence westerly 240 feet to Twenty-fifth avenue; thence northerly 225 feet to point of commencement. Being portion of Block 1050.

also

Commencing at the southwesterly corner of Q street and Thirtieth avenue; thence southerly on Thirtieth avenue 225 feet to School lot; thence westerly 210 feet, more or less; thence northerly 225 feet, more or less, to Twentieth Street; thence easterly 195 feet 3 inches to point of commencement. Being portion of Block 1056.

also

Commencing at the northeasterly corner of R street and Thirty-first avenue; thence easterly on R street 240 feet to Thirtieth street; thence northerly on Thirtieth avenue 225 feet to School lot; thence westerly 240 feet to Thirty-first avenue; thence southerly 225 feet to point of commencement. Being portion of Block 1056.

To Paul Rousset— The undivided 383/1440th portion of the following described land:

Block 1055 bounded by Q and R streets and Twenty-ninth avenue and Thirtieth Avenue

also

Commencing at the northeasterly corner of Twenty-ninth avenue and R street; thence northerly on Twenty-ninth avenue 600 feet to Q street; thence easterly on Q street 240 feet to Twenty-eighth avenue; thence southerly on Twenty-eighth avenue 176 feet 6 inches; thence southwesterly to R street; thence westerly on R street 211 feet 8 inches to point of commencement. Being portion of Block 1054.

also

Commencing at the northwesterly corner of Q Street and Thirtieth avenue; running thence northerly on Thirtieth avenue 600 feet to P street; thence westerly on P street 150 feet 6 inches; thence southerly 601 feet to Q street; thence easterly on Q street 190 feet to point of commencement. Being portion of Block 1012.

also

Commencing at the northeasterly corner of P street and Twenty-fourth avenue; running thence easterly on P street 73 feet 8 inches; thence due northerly 471 feet 6 inches; thence due easterly 21 feet 6 inches; thence northerly 73 feet, more or less, to point of commencement. Being portion of Block 968.

To Paul Rousset -- The undivided 563/1440th portion of the following described land:

Commencing at the southwesterly corner of Q street and Twenty-fifth avenue; thence westerly 226 feet 10 inches; thence southerly 141 feet 7 inches, more or less; thence easterly 217 feet, more or less, to Twenty-fifth avenue; thence northerly 157 feet 4 inches to point of commencement. Being portion of Block 1051.

also

Commending at the southeasterly corner of R street and Thirty-first avenue; thence easterly 240 feet; thence southerly 180 feet 10 inches; thence westerly 240 feet 2 inches to Thirty-first avenue; thence northerly on said avenue 172 feet 5 inches to point of commencement. Being portion of Block 1092.

also

Commencing at the southeasterly corner of R street and Thirtieth avenue; thence easterly 240 feet; thence southerly 191 8 inches; thence westerly 240 feet 2 inches to Thirtieth avenue thence northerly on said avenue 183 feet 3 inches to point of commencement. Being portion of Block 1093.

also

Commencing at the southeasterly corner of R street and Twenty-ninth avenue; thence easterly 206 feet 5 inches; thence southerly 201 feet, more or less; thence westerly 191 feet, more or less, to Twenty-ninth avenue; thence northerly on said avenue 194 feet 1 inch to point of commencement. Being portion of Block 1094.

To Paul Rousset -- The undivided 77/144th portion of the following described land:

Commencing at a point on the easterly line of Twenty-third avenue 91 feet 4 inches southerly from Q street; thence southerly 325 feet, moreor less; thence easterly 32 feet 6 inches, more or less; thence westerly 47 feet 10 inches, more or less, to point of commencement. Being portion of Block 1048.

also

Commencing on the easterly line of Thirty-first avenue 172 feet 5 inches southerly from R street; thence southerly 335 feet 11 inches; thence easterly 240 feet 6 inches to Thirtieth avenue; thence northerly 343 feet 6 inches; nthence westerly 240 feet 2 inches to point of commencement. Being portion of Block 1092.

also

Commencing on the easterly line of Thirtieth avenue 183 feet 3 inches southerly from R street; thence southerly 345 feet 9 inches; thence easterly 240 feet 6 inches to Twenty-ninth avenue thence northerly 353 feet 4 inches; thence westerly 240 feet 6 inches to Twenty-ninth avenue; thence northerly 353 feet 4 inches; thence westerly 240 feet 2 inches to point of commencement. Being portion of Block 1093.

also

Commencing on the easterly line of Twenty-ninth avenue 194ft 1 inch southerly from R street; thence southerly 355 feet 7 inches; thence northeasterly 195 feet, more or less; thence northerly 248 feet, more or less; thence westerly 191 feet, more or less, to point of commencement . Being portion of Block 1094.

To Paul Rousset -- All the following described land.

Commencing on the northwesterly corner of S street and Twenty-fifth avenue; running thence westerly on S street 11 feet 5 inches; thence northeasterly 172 feet to Twenty-fifth avenue; thence southerly on Twenty-fifth avenue 171 feet 9 inches to point of commencement. Being portion of Block 1097.

also

Block 1098 entire, bounded by R and S streets and Twenty-fourth and Twenty-fifth avenues.

To Paul Rousset -- The undivided 95/1440th portion of the following described land:

Commencing at a point on the westerly line of Twenty-second avenue, distant 83 feet 8 inches southerly from O street; running thence southerly on Twenty-second avenue 69 feet 4 inches; thence westerly 240 feet 4 inches to Twenty-third avenue; thence northerly on twenty-third avenue 71 feet 2 inches; thence easterly 240 feet 6 inches to point of commencement. Being portion of Block 967.

To Paul Rousset -- The undivided 1/20th portion of the following described land:

Commencing at the southeasterly corner of M street and Twenty-fifth avenue; running thence southerly on Twenty-fifth avenue 225 feet; thence at right angles easterly 240 feet to Twenty-foyrth avenue; thence northerly on Twenty-fourth avenue 225 feet to M street; thence westerly on M street 240 feet to point of commencement. Being portion of Block 884.

also

Commencing at the northeasterly corner of M street and Twenty-fifth avenue; running thence northerly on Twenty-fifth avenue 225 feet; thence at right angles easterly 240 feet to Twenty-fourth avenue; thence southerly on Twenty-fourth avenue 225 feet to N street; thence westerly on N street 240 feet to point of commencement. Being portion of Block 884.

And the Clerk is hereby directed to publish notices of the aforesaid awards for three consecutive weeks in the Daily Examiner

a newspaper printed in the City and County of San Francisco, in accordance with Section 2 of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco," etc., approved March 24th, 1870.

In Board of Supervisors, San Francisco, May 6th, 1872.
Ayes--Supervisors Menzies, Kenny, McCarthy, Goodwin, King, Forbes, Stony, Shrader, Barrett, Commins, Taylor.
Absent--Supervisors Swain.

JNO. A. RUSSELL, Clerk.

(The Daily Examiner, Friday May 10, 1872. Vol.XIV, No.112.)

ORDER OF GRANT NO. 203, OUTSIDE AND INSIDE LANDS.
(May 6, 1872)

Order of Grant No. 203,
Outside and Inside Lands.

Heretofore A. W. Von Schmidt, S. W. Dick, Hiram S. Wheeler, and John R. Coryell, presented to the Board of Supervisors their petitions, each asking from this city and county a grant for certain lands, as provided by the first section of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco," etc., approved March 24th, 1870. The petitions so presented were referred to the Committee on Outside Lands; and the petitioners appeared before the Clerk of said Committee and made proofs of the matters alleged in their petitions, as required by the second section of said Act. Afterwards the said Committee duly considered the proofs produced and filed the same, together with their report thereon, with the Clerk of said Board. The said Committee in their said report recommended in each case that a grant be awarded as prayed for in the petition therein, provided the petitioners shall, before receiving a deed, quit claim and peaceably deliver the possession of all lands claimed by them reserved according to the provisions of said Act. Afterwards, on the 6th day of May, 1872, said reports were submitted to said Board for approval and it appeared to said Board that the respective claims of the several petitioners were well founded; whereupon the said reports were and are in all things approved.

NOW, THEREFORE, the people of the city and county of San Francisco do ordain that grants of land be and the same are hereby adjudged and awarded to said petitioners, severally, as follows: viz:

OUTSIDE

To A. W. Von Schmidt,

Commencing at a point on the northerly line of Block 89, 600 feet northerly from California street and 29 feet 6 inches westerly from Eighteenth avenue; thence North 64¼ degrees west 7.89 chains; thence North 77¾ degrees West 2.02 chains; thence North 87¼ degrees West 4.00 chains; thence South 85½ degrees West 2.95 chains; thence North 59 degrees West 2.60 chains; thence North 83 degrees West 1.65 chains; thence South 79 degrees West 2.87 chains; thence North 84¾ degrees West to land claimed by Lucius H. Foote; thence along the East line of said land south 3 degrees 20 minutes East 518 feet; thence along the south line of said land south 86 degrees 40 minutes West 310 feet; thence North 30 degrees 20 minutes West 565 feet; thence North 84¾ degrees West to a point distant from Station 8 of this survey 8.55 chains; thence North 6½ degrees West 2.75 chains; thence North 43¾ degrees East 1.00 chains; thence North 9 degrees East 2.00 chains; thence North 34¾ degrees East 2.45 chains; thence North 3 degrees West 2.95 chains; thence North 79 degrees West 3.33 chains; thence North 49¾ degrees West 2.87 chains; thence North 10 degrees West 3.00 chains; thence North 56½ degrees West 1.20 chains; thence South 46¾ degrees West 3.4.8. chains; thence South 17 degrees East 13.03 chains; thence South 25¾ degrees East 12.55 chains to a point 600 feet from the North line of California Street; thence North 86 degrees 40 minutes East 27.50 chains to the point of commencement, containing 24 69/100 acres;

also

Commencing on the westerly line of Twentieth avenue 407 feet 3 inches northerly from California street; thence along the westerly line of Twentieth avenue northerly 192 feet 9 inches; thence

at right angles southerly along the easterly line of Twenty-first avenue 534 feet; thence northerly along land of N.Porter 358 feet 6 inches; thence easterly along the land of N.Porter 228 feet to point of commencement, being portion of Block 81;

also

Commencing at the northerly corner of California street and Twenty-first avenue; thence northerly along the westerly line of Twenty-first avenue 600 feet; thence at right angles westerly 240 feet; thence southerly along the easterly line of Twenty-second avenue 67 feet 8 inches; thence easterly along theland of Tobin & McCue 35 feet 11 inches; thence southerly along the line of said claim 537 feet 8 inches to the northerly line of California street; thence along said northerly line of 151 feet 6 inches to point of commencement, being portion of Block 92;

also

Commencing at a point on the westerly line of Twenty-second avenue 525 feet 3 inches northerly from California street; thence northerly on said westerly line of 74 feet 9 inches; thence at right angles westerly 240 feet; thence at right angles southerly along said easterly line of Twenty-third avenue 99 feet; thence easterly along line of land claimed by Tobin & McCue 241 feet 3 inches to point of commencement, being portion of Block 93;

also

Commencing at a point on westerly line of Twenty-third avenue 493 feet 11 inches northerly from the northwesterly corner of California street and Twenty-third avenue; running thence northerly on said westerly line of Twenty-third avenue 106 feet 1 inch; thence at right angles southerly along the easterly line of Twenty-fourth avenue 130 feet 4 inches; thence north 81¼ degrees East 241 feet3 inches to point of commencement, being portion of Block 94;

also

Commencing at the southwesterly corner of Californiastreet and Twenty-first avenue; thence westerly on the southerly line of California street 143 feet 4 inches to line of land of Tobin & McCue; thence southerly along said land 40 feet 8ninches; thence easterly 140 feet, more or less; to Twenty-first avenue; thence northerly 23 feet 5 inches to point of commencement, being portion of Block 161.

TO S. W. DICK,

Commencing at the northwesterly corner of Twenty-third and Howard streets; thence northerly on Howard street 40 feet; thence at right angles westerly 122 feet 6 inches; thence at right angles southerly 40 feet; thence at right angles easterly 122 feet 6 inches to point of commencement, being portion of Mission Block 137;

also

Commencing at the southeasterly corner of Valencia and Twenty-third Streets; thence southerly on Valencia street 40 feet; thence at right angles easterly 125 feet; thence at right angles northerly 40 feet to Twenty-third street; thence at right angles Westerly on Twenty-third street 125 feet to point of commencement, being portion of Mission Block 155;

also

Commencing at the southwesterly corner of Twenty-fifth and Shotwell streets; thence southerly on Shotwell street 65 feet;

thence at right angles westerly 115 feet to an alley-way; thence northerly at right angles 65 feet to Twenty-fifth street 115 feet to point of commencement, being portion of Mission Block 181.

To Hiram S. Wheeler.

Commencing on easterly line of Shotwell street 44 feet southerly from Twenty-fifth street; thence at right angles easterly 115 feet; thence at right angles northerly 65 feet to Twenty-fifth street; thence westerly on Twenty-fifth street 21 feet; thence at right angles southerly 44 feet; thence easterly 94 feet to Shotwell street and point of commencement, being portion of Mission Block 181.

INSIDE.

To John R. Coryell.

Commencing on the northwesterly corner of Columbia and Butte streets; thence northerly on Columbia street 200 feet; thence at right angles westerly 124 feet 3 inches to Harrison street; thence southerly on Harrison street 200 feet; thence at right angles easterly (sic) on Butte street 124 feet 3 inches to point of commencement, being portion of New Potrero Block 11;

also

New Potrero Block No. 16, bounded by Solano, Butte, Florida and Columbia streets.

And the Clerk is hereby directed to publish notices of the aforesaid awards for three consecutive weeks in the Daily Examiner a newspaper printed in the city and county of San Francisco, in accordance with Section 2 of an Act entitled "An Act to Expedite the Settlement of Land Titles in the city and county of San Francisco," etc., approved March 24th, 1870.

In Board of Supervisors, San Francisco, May 6, 1872.

Adopted by the following vote:

Ayes: Supervisors Menzies, Kenney, McCarthy, Goodwin, King, Forbes, Stony, Shrader, Barrett, Commins, Taylor.

Absent - Supervisors (sic) Swain.

JNO. A. RUSSELL,
Clerk.

The Daily Examiner, May 13, 1872, p.4, col.2, Vol.XIV, No.114.

ORDER OF GRANT NO. 204, May 20, 1872.

Order of Grant No. 204.- Outside and Inside Lands. Heretofore Stanhope, Dickinson, James, Pendergast, Annie V. Finn, Chas. Adams, Frederick Mears and S. P. Kimball, presented to the Board of Supervisors their petitions, each asking from this city and county a grant for certain lands, asprovided by the first section of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco," etc., approved March 24th, 1870. The petitions so presented were referred to the Committee on Outside Lands; and the petitioners appeared before the Clerk of said Committee and made proofs of the matters alleged in their petitions as required by the second section of said act. Afterwards the said Committee duly considered the proofs produced and filed the same, together with their report thereon with Clerk of said Board. The said Committee in their said report recommended in each case that a grant be awarded as prayed for in the petitions therein, provided the petitioners shall, brfore receiving a deed, quit-claim and peaceably deliver the possession of all lands claimed by them reserved according to the provisions of said Act. Afterwards, on the 20th day of May, 1872, said reports were submitted to said Board for approval and it appeared to said Board that the respective claims of the several petitioners were well founded; whereupon the said reports were and are in all things approved.

Now, Therefore the people of the City and County of San Francisco do ordain that grants of land be and the same are hereby adjudged and awarded to the said petitioners, severally, as follows: viz:

OUTSIDE

To Stanhope Dickinson.

Commencing on the easterly line of Alabama Street at a point distant 140 feet southerly from Twenty-fifth street; thence southerly on easterly line of Alabama street 80 feet; thence at right angles easterly 200 feet; thence northerly on Columbia street 80 feet; thence at right angles westerly 200 feet to point of commencement. Being portion of Mission Block 179.

To James Pendergast.

Commencing on the easterly line of Folsom Street 65 feet northerly from Twenty-second street; thence northerly on Folsom street 60 feet; thence at right angles easterly 122 feet 6 inches; thence southerly at right angles 60 feet; thence westerly at right angles 122 feet 6 inches to Folsom street and point of commencement. Being portion of Mission Block 54.

To Annie V. Finn.

Commencing at a point on the easterly line of Mission Streetn80 feet southerly from Twenty-second street; thence southerly on Mission street 30 feet; thence at right angles easterly 122 feet 6 inches; thence at right angles northerly 30 feet; thence at right angles westerly 122 feet 6 inches to point of commencement. Being portion of Block 137.

INSIDE.

To Charles Adams.

Commencing on the northeasterly corner of Iowa and Solano streets, thence northerly along the easterly line of Iowa street 115 feet; thence easterly 69 feet; thence southwesterly 105 feet to northerly line of said Solano street; thence westerly along said northerly line of Solano street 35 feet to the point of commencement. Being portion of Potrero Block 341.

also

Commencing on the northeasterly corner of Pennsylvania Avenue and Solano street; thence northerly along the easterly line of Pennsylvania avenue 170 feet; thence easterly 204 feet to the westerly line of Iowa street 130 to the northerly line of Solano street; thence at right angles westerly along said northerly line of Solano street 200 feet to the point of commencement. Being portion of New Potrero Block No. 316.

also

Commencing on the northwesterly corner of Pennsylvania avenue and Solano street; thence northerly on the westerly line of Pennsylvania avenue 256 feet; thence southwesterly 304 feet to Solano street; thence easterly on northerly line of Solano street 108 feer 3 inches to point of commencement. Being portion of New Potrero Block No. 305.

also

Commencing on the southwesterly corner of Pennsylvania avenue and Solano street; thence southerly along the westerly line of Pennsylvania avenue 150 feet; thence at right angles westerly 100 feet; thence at right angles southerly 75 feet; thence at right angles easterly 100 feet to the westerly line of Pennsylvania avenue thence at right angles southerly along the westerly line of Pennsylvania avenue 175 feet to the northerly line of Butte street; thence at right angles westerly along said northerly line of Butte street 200 feet to the easterly line of Mississippi street; thence at right angles northerly along the easterly line of Mississippi street 224 feet; thence northeasterly 188 feet to the southerly line of Solano street; thence easterly along said southerly line of Solano street 134 feet to the point of commencement. Being portion of New Potrero Block No. 304.

also

Commencing on the northwesterly corner of Butte and Mississippi street 24 feet; thence southwesterly 26 feet to the northerly line of Butte street; thence easterly along the said northerly line of Butte street 10 feet to the point of commencement. Being portion of New Potrero Block No. 281.

also

Commencing on the southwesterly corner of Pennsylvania avenue and Butte street; thence southerly along the westerly line of Pennsylvania avenue 204 feet; thence at right angles westerly 200 feet to the easterly line of Mississippi street; thence at right angles northerly along said easterly line of Mississippi street 204 feet to the southerly line of Butte street; thence at right angles easterly along the southerly line of Butte street 200 feet to the point of commencement. Being portion of Potrero Block No. 303.

also

Commencing on the southeasterly corner of Pennsylvania avenue and Solano street; thence southerly along the easterly line of Pennsylvania avenue 200 feet; thence at right angles easterly 100 feet; thence at right angles northerly 50 feet; thence at right angles easterly 100 feet to the westerly line of Iowa street; thence at right angkes northerly along the westerly line of Iowa street to the southerly line of Solano street; thence at right angles westerly along said southerly line of Solano street 200 feet to point of commencement. Being portion of New Potrero Block No. 317.

also

Commencing on the southeasterly corner of Iowa street and Solano street; thence southerly along the easterly line of Iowa street 30 feet; thence northeasterly 30 feet 8 inches to the southerly line of Solano street; thence westerly along the southerly

line of Solano street 10 feet to the point of commencement. Being portion of New Potrero Block No. 340.

To Frederick Mears.

Commencing on the northerly side of Green street 137 feet 6 inches westerly from the westerly line of Steiner street; thence westerly 137 feet 6 inches; thence at right angles northerly 137 feet 6 inches; thence at right angles easterly 137 feet 6 inches; thence at right angles southerly 137 feet 6 inches to point of commencement. Being portion of Western Addition Block No. 396.

also

Commencing at the southeasterly corner of Union and Pierce streets; thence easterly alsong the southerly line of Union street 137 feet 6 inches; thence at right angles southerly 137 feet 6 inches; thence at right angles westerly 137 feet 6 inches; thence at right angles northerly and along the easterly line of Pierce street 137 feet 6 inches to the point of commencement. Being portion of Western Addition Block No. 396.

also

Commencing at a point on the southerly line of Green street 120 feet easterly from the southeasterly corner of Pierce ~~xxxxx~~ and Green streets; thence easterly on said southerly line of Green street 155 feet; thence at right angles southerly 119 feet; thence westerly along a line drawn to a point on the easterly line of Pierce street and 123 feet southerly from the southeasterly corner of Pierce and Green streets 156 feet, more or less, to a point where a line let fall from the point of beginning and parallel with Pierce street will meet said line; thence northerly in a straight line to the point of beginning. Being portion of Western Addition Block No. 395.

INSIDE AND OUTSIDE.

To S. P. Kimball

Commencing at the southeasterly corner of Napa and Mississippi streets; thence easterly on Napa street 200 feet; thence southerly on Pennsylvania ~~xxxxx~~ street 190 (?) feet; thence southwesterly 46 feet to a point 14 feet 6 inches westerly from Pennsylvania avenue; thence northwesterly 189 feet, more or less, to a point on the easterly line of Mississippi street 209 feet southerly of Napa street; thence northerly on Mississippi street 209 feet to Napa street and point of commencement. Being portion of New Potrero Block No. 302.

also

Commencing at the southwesterly corner of Napa and Mississippi streets; thence southerly on Mississippi street 190 feet; thence northwesterly 205 feet to Texas Street; thence northerly on Texas street 68 feet 5 inches; thence at right angles easterly 100 feet; thence at right angles northerly 75 feet to Napa street; thence easterly on southerly line of Napa street 100 feet to point of commencement. Being portion of New Potrero Block No. 283.

also

Commencing at the northwesterly corner of Napa and Mississippi streets; thence northerly on Mississippi street 25 feet; thence northwesterly 16 6 feet; thence northeasterly 93 feet; thence northwesterly 83 feet to Texas Street; thence southerly on Texas street; thence southerly on Texas Street 302feet; thence easterly on northerly line of Napa street 200 feet to point of commencement. Being portion of New Potrero Block No. 282.

And the Clerk is hereby directed to publish notice of the aforesaid awards for three consecutive weeks in the Daily Examiner a newspaper printed in the city and county of San Francisco in accordance with Section 20 of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco," etc., approved March 24th, 1870.

In Board of Supervisors, San Francisco, May 20, 1872.
Adopted by the following vote:
Ayes-- Supervisors Menzies, Kenney, Swain, McCarthy, Goodwin, King, Forbes, Stony, Shrader, Barrett, Cummins, Taylor.

JNO. A. RUSSELL, Clerk.

(The Daily Examiner, May 27, 1872, Vol.XIV, No. 126)

ORDER OF GRANT NO. 205 - June 24, 1872.

Order of Grant No.205 - Outside Lands. Heretofore Sarah Baker, A.C.Keyt, William Borgren, John Gross, E.D.Sawyer and Annie Johnson presented to the Board of Supervisors their petitions,each asking from this city and county a grant for certain lands, as provided by the first section of an act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco," etc., approved March 24th, 1870. The petitions so presented were referred to the Committee on Outside Lands; and thr petitioners appeared before the Clerk of said Committee and made proofs of the matters alleged in their petitions, as required by the second section of said Act. Afterwards the said Committee duly considered the proofs produced and filed the same, together with their report thereon with the clerk of said Board. The said Committee in their said report recommended in each case that a grant be awarded as prayed for in the petitions therein, provided the petitioners shall, before receiving a deed, quit claim and peacably deliver the possession of all lands claimed by them reserved according to the provisions of said Act. Afterwards, on the 24th day of June, 1872, said reports were submitted to said Board for approval, and it appeared to said Board that the respective claims of the several petitioners were well founded, whereupon the said reports were and are in all things approved.

Now, therefore, the people of the City and County of San Francisco do ordain that grants of land be and the same are hereby adjudged and awarded to the said petitioners severally as follows, viz:

To Sarah Baker

Commencing at the northeasterly corner of Yolo and Nebraska streets; running thence northerly on the easterly line of Nebraska street 100 feet; thence at right angles easterly 25 feet; thence at right angles southerly 100 feet to Yolo street; thence westerly on the northerly line of Yolo street 25 feet to the point of commencement - being a portion of Potrero Block No.111

also

Commencing at a point on the easterly line of Rhode Island street, distant 200 feet southerly from Yolo street; running thence southerly on the easterly line of Rhode Island street 25 feet; thence at right angles easterly 100 feet; thence at right angles northerly 25 feet; thence at right angles westerly 100 feet to Rhode Island street and point of commencement. Being portion of New Potrero Block No. 154.

To A.C.Kent.

Commencing at a point on the westerly line of Bryant street 260 feet southerly from Twenty-second street; thence running southerly on Bryant street 52 feet; thence at right angles westerly 100 feet; thence at right angles northerly 52 feet; thence at right angles easterly 100 feet to point of commencement. Being portion of Mission Block No. 147.

To Wilhelm Borgren.

Commencing at a point on the easterly line of Hampshire Street 300 feet southerly from the southeasterly corner of Twenty-second and Hampshire Streets; thence southerly along the easterly line of Hampshire Street 25 feet; thence atright angles easterly 100 feet; thence at right angles northerly 25 feet; thence at right angles westerly 100 feet to the point of commencement. Being portion of Mission Block No. 148.

To John Gross.

Commencing at a point on the southerly line of Twenty-fourth Street 127 feet westerly from the westerly line of Columbia Street; thence running westerly on the line of Twenty-fourth street 23 feet; thence at right angles southerly 104 feet; thence at right angles easterly 23 feet; thence at right angles northerly 104 feet to point of commencement. Being portion of Mission Block No. 174.

To Ebenezer S. Sawyer.

Commencing at the northwesterly corner of Block 95 of the Western Addition; thence running southerly on the westerly line of Twenty-fourth Avenue 100 feet 6 inches; thence at right angles westerly 240 feet to Twenty-fifth Avenue; thence at right angles northerly along the easterly line of Twenty-fifth Avenue 100 feet 6 inches to the northeasterly corner of said Block; thence easterly along the northerly line of said block 240 feet to the point of commencement. Being portion of Western Addition Block No. 95.

To Annie Johnson.

Commencing at a point on the northerly line of Pine street 57 feet 6 inches easterly from the easterly line of Baker street; running thence easterly along the northerly line of Pine street 25 feet; thence at right angles northerly 82 feet 6 inches; thence at right angles westerly 25 feet; thence at right angles southerly 82 feet 6 inches to the point of commencement. Being portion of Western Addition Block No. 540.

And the Clerk is hereby directed to publish notices of the aforesaid awards for three consecutive weeks in the Daily Examiner, a newspaper printed in the city and county of San Francisco, in accordance with Section 2 of and Act entitled - "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco", etc., approved March 24th, 1870.

The Board of Supervisors, San Francisco, June 24th,1872.

Adopted by the following vote:

Ayes--Supervisors Menzies, Swain, Kenney, McCarthy, Goodwin, King, Forbes, Stony, Shrader, Barrett, Commins, Taylor.

Jno. A. Russell, Clerk.

(The Daily Examiner, June 28, 1872, Vol. XIV, No. 154)

ORDER OF GRANT NO. 206, June 24, 1872.

Order of Grant No. 206.

Inside Lands.

Heretofore Rowland Chatham, John Sloan, Lorin Brum, Richard Harris, Richard O'Neill, Lewis Smith, presented tonthe Board of Supervisors their petitions, each asking from this City an County a grant for certain lands, as provided by the first section of an Act entitled - "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco," etc., approved March 24th, 1870. The petitions so presented were referred to the Committee on Outside Lands and the petitioners appeared before the Clerk of said Committee and made proofs of the matters alleged in their petitions, as required by the second section of said Act. Afterwards the said Committee duly considered the proofs produced and filed the same, together with their report thereon, with the Clerk of said Board. The said Committee in their said report recommended in each case that a grant be awarded as prayed for in the petition therein, provided the petitioners shall, before receiving a deed, quit-claim and peaceably deliver the possession of all lands claimed by them reserved according to provisions of said Act. Afterwards on the 24th day of June, 1872. Said reports were submitted to said Board for approval, and it appeared to said Board that the claims off the petitioners were well founded, whereupon the said reports were and are in all things approved.

Now, Therefore, the people of the City and County of San Francisco do ordain that grants of land be and the same are hereby adjudged and awarded to the said petitioners severally as follows; viz:

To Rowland Chatham.

Commencing at the southeasterly corner of Mariposa and Carolina streets; running thence easterly on the northerly line of Mariposa street 200 feet to Wisconsin street; thence southerly on the westerly line of Wisconsin street 177 feet 2¼ inches; thence northwesterly 239 feet 9 inches to Carolina street; thence northerly on the easterly line of Carolina street 44 feet 9 inches to the point of commencement. Being portion of New Potrero Block No. 199

also

Commencing at the southeasterly corner of Mariposa street and Wisconsin street; thence running easterly on the northerly line of Mariposa street 200 feet to Arkansas street; thence southerly on the westerly line of Arkansas street 363 feet; thence northwesterly 232 feet 3½ inches to Wisconsin street; thence northerly on the easterly line of Wisconsin street 230 feet 3 inches to the point of commencement. Being portion of New Potrero Block No. 208.

To John Sloan.

Commencing at a point on the westerly line of Tennessee street 125 feet northerly from the northwesterly corner of Tennessee and Butte streets, running thence northerly on the westerly line of Tennessee street 50 feet; thence at right angles westerly 100 feet; thence at right angles southerly 50 feet; thence at right angles easterly 100 feet to the point of commencement. Being a portion of New Potrero Block No. 376.

To Lorin Brunn.

Commencing at the northwesterly corner of Mariposa street and Missouri street; running thence northerly on the line of Missouri street 137 feet 6 inches; thence at right angles westerly 100 feet; thence at right angles southerly 137 feet 6 inches to Mariposa street; thence easterly on Mariposa street 100 feet to point of commencement. Being portion of New Potrero Block No. 243.

To Richard Harris.

Commencing at a point on the westerly line of Kentucky street 275 feet northerly from the northerly line of Solona street running thence northerly along the westerly line of Kentucky street 50 feet; thence at right angles westerly 100 feet; thence at right angles southerly 50 feet; thence at right angles easterly 100 feet to the point of commencement. Being portion of New Potrero Block No. 388.

To Richard O'Neill.

Commencing at the northwesterly corner of Solona and Florida streets; running thence northerly along the westerly line of Florida street 200 feet; thence at right angles westerly 200 feet to Columbia street; thence southerly along the easterly line of Columbia street 200 feet to Solano street; thence easterly along the northerly line of Solano street 200 feet to the point of commencement. Being portion of New Potrero Block No. 17.

also

New Potrero Block No. 41, bounded by Santa Clara, Mariposa, Hampshire and York streets

also

Commencing at a point on the westerly line of Potrero Avenue 114 feet southerly from the southerly line of Alameda street running thence southerly along the westerly line of Potrero Avenue 57 feet; thence at right angles westerly 200 feet to Jersey street; thence northerly along the easterly line of Jersey street 57 feet; thence easterly and parallel with Alameda street 200 feet to point of commencement. Being portion of New Potrero Block No. 67.

also

Commencing at a point on the westerly line of Potrero Avenue 108 feet 9 inches northerly from the northerly line of Alameda street; thence running westerly and parallel with Alameda street 200 feet to Jersey street; thence northerly along the easterly line of Jersey street 54 feet 9 inches; thence at right angles easterly 200 feet to Potrero Avenue; thence southerly along the westerly line of Potrero avenue 54 feet 9 inches to the point of commencement. Being portion of Potrero Block No. 68.

To Lewis Smith.

Commencing on the southerly line of Solano street 100 feet westerly of Tennessee street; thence westerly on the southerly line of Solano street 50 feet; thence at right angles southerly 100 feet; thence at right angles easterly 50 feet; thence at right ahgles northerly to point of commencement. Being portion of New Potrero Block 376.

And the Clerk is hereby directed to publish notices of the aforesaid awards for three consecutive weeks in the Daily Examiner a newspaper printed in the City and County of San Francisco, in accordance with Section 2 of andAct entitled - "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco etc. approved March 24th, 1870.

In Board of Supervisors, San Francisco, June 24th, 1872.

Adopted by the following vote:
Ayes-- Supervisors Menzies, Swain, Kenney, McCarthy, Goodwin,King Forbes, Stony, Shrader, Barrett, Commins, Taylor.

Jno. A. Russell, Clerk.

(The Daily Examiner, June 28, 1872, Vol. XIV, No.154)

ORDER OF GRANT NO. 207. August 26, 1872.

Order of Grant No. 207. Outside and Inside Lands.

Heretofore William H. Harnden, Wm.H. Pierson, Max Morgenthan, John Duff, Bernard Cook, E.J.Foster and Mary P.Benton, presented to the Board of Supervisors their petitions, each asking from this city and county a grant for certain lands, as provided by the first section of an act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco," etc., approved March 24th, 1870. The petitions so presented were referred to the Committee on Outside Lands and the petitioners appeared before the Clerk of said Committee and made proofs of the matters alleged in their petitions, as required by the second section of said Act. Afterwards the said committee duly considered the proofs produced and filed the same, together with their report thereon, with the Clerk of said Board. The said Committee in their said report recommended in each case that a grant be awarded as prayed for in the petitions.therein,provided the petitioners shall before receiving a deed, quit-claim and peaceably deliver the possession of all lands claimed by them reserved according to the provisions of said Act.

Afterwards, on the 26th day of Aug., 1872, said reports were submitted to said Board for approval and it appeared to said Board that the respective claims of the several petitioners were well founded, whereupon the said reports were and are in all things approved.

Now, Therefore, the people of the City and County of San Francisco do ordain that grants of land be and the same are hereby adjudged and awarded to the said petitioners, severally as follows, viz:

To William H. Harnden.

Commencing on the southerly line of Yolo street 25 feet westerly from De Haro street; thence westerly on Yolo street 75 feet; thence at right angles southerly 100 feet; thence at right angles easterly 75 feet; thence at right angles northerly 100 feet to point of commencement. Being portion of Potrero Block 154.

To William H. Pierson.

Commencing on the easterly line of Bryant street 156 feet from Twenty-fourth street; thence northerly on easterly line of Bryant street 26 feet; thence at right angles southerly 26 feet; thence at right angles easterly 100 feet; thence at right angles westerly 100 feet to point of commencement. Being portion of Mission Block 150.

To Max Morgenthan.

West half of Mission Block No. 145, bounded by Twenty-first, Twenty-second, York and Hampshire streets.

also

East half of Mission Block No. 145, bounded by Twenty-first, Twenty-second, Hampshire streets and Potrero avenue.

also

Commencing at the northwestly corner of Potrero avenue and Twenty-first street; thence northerly on westerly line of Potrero avenue 25 feet 8 inches to the charter line of 1851; thence southwesterly along said charter line to easterly line of Hampshire street; thence southerly along the easterly line of Hampshire street to northerly line of Twenty-first street; and thence easterly along the northerly line of Twenty-first street 200 feet to point of commencement. Being portion of Mission Block 144.

also

The east half of Mission Block No. 146 bounded by Work Bryant, Twenty-first and Twenty-second streets.

also

Commencing on the southwesterly corner of Bryant and Twenty-first streets; thence southerly on Bryant street 260 feet; thence at right angles westerly 23 feet; thence northwesterly 290 feet, more or less, to a point on the southerly line of Twenty first street 51 feet easterly from Columbia street; thence at right angles easterly on Twenty-first street 149 feet to point of commencement. Being portion of Mission Block 146.

To John Duff.

Commencing on the westerly line of Folsom street 95 feet northerly from Twenty-second street; thence northerly on Folsom street 60 feet; thence at right angles westerly 245 feet to easterly line of Shotwell Street; thence at right angles southerly on Shotwell street 30 feet; thence at right angles easterly 122 feet 6 inches; thence at right angles southerly 30 feet; thence at right angles easterly 122 feet 6 inches to westerly line of Folsom street and point of commencement, being portion of Mission Block 55.

To Bernard Cook.

Commencing at a point on the easterly line of Columbia street 104 feet northerly from Twenty-third street; thence northerly on easterly line of Columbia street 26 feet; thence at right angles easterly 100 feet; thence at right angles southerly 26 feet; thence at right angles westerly 100 feet to point of commencement. Being portion of Mission Block No. 147.

To E. J. Foster.

Commencing at the southwesterly corner of Point Lobos and Twenty-fifth avenues; thence westerly on Point Lobos avenue 240 feet; thence southerly on Twenty-fifth avenue 600 feet to A street; thence easterly on A street 240 feet to Twenty-fourth avenue; thence northerly on Twenty-fourth avenue 225 feet to School lot; thence at right angles westerly 120 feet; thence at right angles northerly 150 feet; thence at right angles easterly 120 feet to Twenty-fourth avenue; thence northerly on Twenty-fourth avenue 225 feet to Point Lobos avenue and point of commencement. Being portion of Block No. 260.

also

Commencing at southwesterly corner of Point Lobos and Twrnty-fifth avenues; thence westerly on Point Lobos avenue 99 feet 6½ inches; thence southeasterly 603 feet 2 inches, more or less to A street; thence easterly on A street 37 feet 4 inches; thence northerly on Twenty-fifth avenue 600 feet to Point Lobos avenue and point of commencement, being portion of Block No.259.

also

Commencing at the southwesterly corner of A street and Twenty-fourth avenue; thence westerly on A street 240 feet; thence southerly on Twenty-fifth avenue 134 88/100 feet; thence northeasterly 250 feet, more or less, to Twenty-fourth avenue 64 feet 5 inches to point of commencement. Being portion of Block No. 307.

also

Commencing at the southwesterly corner of A street and Twenty-fifth avenue; thence westerly on A street 29 feet; thence southeasterly 156 feet, more or less, to line of land claimed by John Hannan; thence northeasterly 15 feet, more or less to Twenty-fifth avenue; thence northerly on Twenty-fifth avenue 154 feet 8 inches to A street and point of commencement; being portion of Block No. 308.

INSIDE.

To Mary P. Benton.

Commencing on the southwesterly line of Clinton street 175 feet southeasterly from Brannan street; thence southeasterly on Clinton street 100 feet; thence at right angles southwesterly 75 feet; thence at right angles northwesterly 100 feet; thence at right angles northeasterly 75 feet to Clinton street and point of commencement; being portion of Block No. 399.

And the Clerk is hereby directed to publish notices of the aforesaid awards for three consecutive weeks in the Daily Examiner, a newspaper printed in the city and county of San Francisco, in accordance with Section 2 of an Act entitled "An Act to Expedite the Settlement of Land Titles in the city and county of San Francisco," etc., approved March 24th, 1870.

In Board of Supervisors, San Francisco, August 26,1872

Adopted by the following vote:

Ayes--Supervisors Menzies, Swain, Kenny, McCarthy, Goodwin, King, Forbes, Stony, Shrader, Barrett, Commins, Taylor.

Jno. A. Russell,
Clerk.

(The Daily Examiner, August 29, 1872, Vol.XV, No.51)

ORDER OF GRANT NO. 208, October 28, 1872.

Order of Grant No. 208. Outside and Inside Lands.

Heretofore John and Catharine Hogan, Edward and Ann Whelan, John Anderson, Hans P. Hanson, Timothy and Bridget Gleason Albert Macy and Geo. F.Allen, presented to the Board of Supervisors their petitions, each asking from this City and County a grant for certain land, as provided by the first section of an act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco," etc., approved March 24th, 1870. The petitions so presented were referred to the Committee on Outside Lands, and the petitioners appeared before the Clerk of said Committee and made proofs of the matters alleged in their petitions as required by the second section of said Act. Afterwards the said Committee duly considered the proofs produced and filed the same together with their report thereon with Clerk of said Board. The said Committee in their said report recommended in each case that a grant be awarded as prayed for in the petitions therein, provided the petitoners shall, before receiving a deed, quit-claim and peaceably deliver the possession of all lands claimed by them reserved according to the provisions of said act.

Afterwards, on the 28th day of Oct., 1872, said reports were submitted to said Board for approval and it appeared to said Board that the respective claims of the several petitioners were well founded; whereupon the said reports were and are in all things approved.

Now, therefore, the people of the City and County of San Francisco do ordain that grants of land be and the same are hereby adjudged and awarded to the said petitioners, severally, as follows, viz:

OUTSIDE.

To John and Catharine Hogan.

COMMENCING on the easterly line of York street 32 feet 6 inches northerly from Twenty-third street; thence northerly on York street 37 feet 6 inches; thence at right angles easterly 100 feet; thence at right angles 37 feet 6 inches; thence at right angles westerly 100 feet to point of commencement. Being portion of Mission Block 148.

To Edward and Ann Whelan.

COMMENCING on the westerly line of Alabama street 208 feet southerly from Twenty-fourth street; thence southerly on Alabama street 26 feet; thence at right angles northerly 26 feet; thence at right angles easterly 100 feet to point of commencement. Being portion of Mission Block 174.

INSIDE.

To John Anderson.

COMMENCING on the westerly line of Caroline street 39 feet southerly from Maripose street; thence southerly on Carolina street 361 feet to Solano street; thence westerly on Solano street 200nfeet to De Haro street; thence northerly on De Haro street 62 feet; thence north 29 degrees east 448 feet to point of commencement. Being portion of Potrero Block No. 174.

Also

COMMENCING on the southwesterly corner of Solano and Carolina streets; thence southerly on Carolina street 91 feet; thence south 26 degrees west 337 feet; thence north 59 degrees west 32 feet to De Haro street; thence northerly on De Haro street 362 feet to Solano street; thence easterly on Salano street 200 feet to the point of commencement. Being portion of Potrero Block 175.

Also

COMMENCING on the southwesterly corner of De Haro and Solano streets; thence southerly on De Haro street 302 feet; thence northerly 59 degrees west 170 feet; thence northetly 29 degrees east 240 feet to Solano street; thence easterly on Solano street 6 feet to the point of commencement of Potrero Block 162.

Also

COMMENCING on the easterly line of Carolina street 44 feet 9 inches southerly from Maripose street; thence south 60 degrees east 200 feet; thence south 26 degrees west 290 feet to Solano stfeet; thence westerly on Solano street 15 feet to Carolina street; thence northerly on Carolina street 355 feet 3 inches to the point of commencement. Being portion of Potrero Block 199.

To Hans P. Hanson.

COMMENCING on the easterly line of Tennessee street 100 feet southerly from Mariposa street; thence southerly on easterly line of Tennessee street 25 feet; thence at right angles easterly 100 feet; thence at right angles northerly 25 feet; thence at right angles westerly 100 feet to point of commencemtn. Being portion of Potrero Block No. 388.

To Timothy and Bridget Gleason.

COMMENCING on the northwesterly corner of Twenty-fourth and Folsom streets; thence northetly on Folsom street 40 feet; thence at right angles westerly 122 feet 6 inches; thence at right angles southerly 40 feet to northerly line of Twenty-fourth street; thence easterly on Twenty-fourth street 122 feet 6 inches to point of commencement. Being portion of Mission Block 153.

To Albert Macy.

COMMENCING on the southerly line of Sierra street 50 feet westerly from Georgia street; thence westerly on Sierra street 50 feet; thence at right angles southerly 100 feet; thence at right angles easterly 50 feet; thence at right angles northerly 100 feet to Sierra street and the point of commencement. Being portion of Potrero Block 444.

To George F. Allen.

COMMENCING at a point on the westerly line of Capp street 305 feet northerly from Twenty-second street; thence northerly on Capp street 36 feet to Charter line of 1851; thence southwesterly along Charter Line 122 feet 6 inches; thence at right angles southerly 30 feet; thence at right angles easterly 122 feet 5 inches to Capp street and point of commencement. Being portion of Mission Block 64.

And the Clerk is hereby directed to publish notices of the aforesaid awards for three consecutive weeks in the Daily Examiner, a newspaper printed in the City and County of San Francisco, in accordance with Section 2 of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco," etc., approved March 24th, 1870.

In Board of Supervisors, San Francisco, October 28, 1872.

Ayes--Supervisors Menzies, Swain, Kenney, McCarthy, Goodwin, King, Schrader, Barrett, Commings, Taylor.
Absent--Supervisors Forbes, Story.

JNO. A. RUSSELL, Clerk.

(The Daily Examiner, October 30,1872, Vol.XII, No.104)

ORDER OF GRANT No. 209.

(November, 4, 1872.)

Order of Grant No. 209. Outside Lands. Heretofore R. P. Clement, Mary Ann Kennedy nee Scanlon, and A. L. Tubbs, presented to the Board of Supervisors their petition, each asking for certain lands, as provided by the first section of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco", etc., approved March 24th, 1870. The petitions so presented were referred to the Committee on Outside Lands, and the petitioners appeared before the Clerk of said Committee and made proofs of the matters alleged in their petitions, as required by the second section of said act. Afterwards, the said Committee duly considered the proofs produced, and filed the same, together with the report thereon, with Clerk of said Board. The said Committee in their said report recommended in each case that a grant be awarded as prayed for in the petitions therein, provided the petitioners shall, before receiving a deed, quit-claim and peaceably deliver the possession of all lands claimed by them reserved according to the provisions of said Act.

Afterwards, on the 4th day of Nov., 1872, said reports were submitted to said Board for approval, and it appeared to said Board that the respective claims of the several petitioners were well founded, whereupon the said reports were and are in all things approved.

Now therefore the people of the City and County of San Francisco do ordain that grants of land be and the same are hereby adjudged and awarded to the said petitioners severally as follows, viz:

Outside.

TO R. P. CLEMENT.

Commencing on the northerly line of Tyler Street 137 feet 6 inches easterly of Masonic Avenue; thence easterly on Tyler Street 137 feet 6 inches; thence at right angles northerly 137 feet 6 inches; thence at right angles westerly 137 feet 6 inches; thence at right angles southerly 137 feet 6 inches to Tyler Street and point of commencement, being portion of Block 648.

Also:

Commencing at the northeasterly corner of Parker Avenue and Fulton Street; thence northerly on easterly line of Parker Avenue 130 feet, more or less, to line of land granted to W. K. Doherty; thence easterly 103 feet 10 inches, more or less, to Treadwell's fence; thence south 15 degrees east 42 feet; thence south 23-1/4 degrees east 89 feet to the north line of

Fulton Street 120 feet 6 inches to point of commencement.

Also:

Commencing at the northeasterly corner of Parker Avenue and Fulton Street; thence westerly on Fulton Street 80 feet; thence at right angles northerly 130 feet, more or less, to line of land granted to W. K. Doherty; thence easterly on northerly line of Sublett and Blake tracts 80 feet, more or less, to westerly line of Parker Avenue; thence southerly along Parker Avenue 130 feet to northerly line of Fulton Street.

Also:

Commencing at the northwesterly corner of Baker and Hayes Streets; thence northerly on westerly line of Baker Street 137 feet 6 inches; thence at right angles westerly 122 feet; thence southerly and parallel with Baker Street 137 feet 6 inches to northerly line of Hayes Street; thence easterly along Hayes Street 122 feet to westerly line of Baker Street and point of commencement, being portion of Block 594.

Also:

Commencing at the point where the west line of Mission Street intersects with the southeasterly line of the San Francisco and San Jose Railroad; thence southerly along said line of Mission Street 106 feet 9 inches, more or less, to lot of N. E. Hawley; thence westerly at right angles 117 feet 6 inches to an alley; thence northerly on easterly line of said alley 36 feet, more or less, to the southeasterly line of the San Francisco and San Jose Railroad; thence northwesterly along the said line of said railroad 175 feet, more or less, to westerly line of Mission Street and point of commencement, being portion of Mission Block 170.

To Mary Ann Kennedy nee Scanlon:

Commencing at the northeasterly corner of York and Twenty-third Streets; thence easterly on Twenty-third 100 feet; thence at right angles northerly 32 feet 6 inches; thence at right angles westerly 100 feet; thence at right angles southerly 32 feet 6 inches to point of commencement, being portion of Mission Block 148.

To A. L. Tubbs:

Commencing on easterly line of Missouri Street 350 feet northerly from Nevada Street; thence northerly on the easterly line of Missouri Street 83 feet; thence at right angles easterly 100 feet; thence at right angles southerly 83 feet; thence at right angles westerly 100 feet to Missouri Street and point of commencement, being portion of Block 263.

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And the Clerk is hereby directed to publish notices of the aforesaid awards for three consecutive weeks in the Daily

Examiner, a newspaper printed in the City and County of San Francisco, in accordance with Section 2 of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco", etc., approved March 24th, 1870.

In Board of Supervisors, San Francisco, November 4th, 1872.

Adopted by the following vote:

Ayes: Supervisors Menzies, Kenny, McCarthy, Goodwin, King, Story, Shrader, Barrett, Commins, Taylor.

Absent: Supervisors Swain, Forbes.

John A. Russell, Clerk.

(San Francisco Examiner, Thursday, Nov. 7, 1872, Vol. XV., No.111, p. 3, col. 8.)

ORDER OF GRANT No. 210.

(December 9, 1870.)

Order of Grant No. 210. Outside and Inside Lands.

Heretofore, Marie Baker, George W. Frink, Margery Bradley and John C. Pelton presented to the Board of Supervisors their petitions, each asking from this city and county a grant for certain lands, as provided by the first section of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco", etc., approved March 24th, 1870. The petitions so presented were referred to the Committee on Outside Lands, and the petitioners appeared before the Clerk of said Committee and made proofs of the matters alleged in their petitions, as required by the second section of said Act. Afterwards, the said Committee duly considered the proofs produced, and filed the same, together with their report thereon, with Clerk of said Board. The said Committee in their said report recommended in each case that a grant be awarded as prayed for in the petitions therein, provided the petitioners shall, before receiving a deed, quit-claim and peaceably deliver the possession of all lands claimed by them reserved according to the provision of said Act.

Afterwards, on the 9th day of Dec., 1872, said reports were submitted to said Board for approval, and it appeared to said Board that the respective claims of the several petitioners were well founded; whereupon the said reports were and are in all things approved.

Now therefore, the people of the City and County of San Francisco do ordain that grants of land be and the same are hereby adjudged and awarded to the said petitioners severally, as follows, viz: Outside.

TO MARIA BAKER:

Commencing at a point on the westerly line of Twenty-fourth Avenue 462 feet 7 inches northerly of California Street; thence northerly 36 feet 11 inches; thence westerly 240 feet to the easterly line of Twenty-fifth Avenue; thence southerly on Twenty-fifth Avenue 61 feet 2 inches; thence northeasterly 241 feet 3 inches to point of commencement, being portion of Block No. 95.

Also:

Commencing on the westerly line of Twenty-fifth Avenue 431 feet 3 inches northerly of California Street; thence northerly 168 feet 9 inches; thence westerly 240 feet to easterly line of Twenty-sixth Avenue; thence southerly 193 feet 1 inch; thence northerly 241 feet 3 inches to point of commencement, being portion of Block 96.

Also:

Commencing on the westerly line of Twenty-sixth Avenue 399 feet 10 inches northerly of California Street; thence

northerly 200 feet 2 inches; thence westerly 240 feet to easterly line of Twenty-seventh Avenue; thence southerly on Twenty-seventh Avenue 224 feet 5 inches; thence northeasterly 241 feet 3 inches to point of commencement, being portion of Block No. 97.

Also:

Block No. 98 entire, bounded by Twenty-seventh and Twenty-eight Avenues, California and _____ Streets.

Also:

Block No. 99 entire, bounded by Twenty-eighth and Twenty-ninth Avenues, California and _____ Streets.

Also:

Block No. 100 entire, bounded by Twenty-ninth and Thirtieth Avenues, California and _____ Streets.

Also:

Block No. 101 entire, bounded by Thirtieth and Thirty-first Avenues, California and _____ Streets.

Block No. 102 entire, bounded by Thirty-first and Thirty-second Avenues, California and _____ Streets.

Also:

Commencing at the northwesterly corner of California and Thirty-second Avenue; thence northerly on Thirty-second Avenue 600 feet; thence westerly 240 feet 6 inches; thence southeasterly 603 feet 5 inches, more or less, to a point on the westerly line of California Street 165 feet 4 inches easterly from Thisty- (sic) second Avenue; thence easterly on California Street 79 feet 8 inches to point of commencement, being portion of Block No. 103.

Also:

Commencing on the westerly line of Thirty-second Avenue 224 feet 6 inches northerly from Clement Street; thence northerly 375 feet 6 inches to southerly line of California Street; thence westerly 71 feet 7 inches; thence southeasterly 381 feet 2 inches to a point 211 feet 4 inches easterly of Thirty-third Avenue; thence northeasterly 29 feet 8 inches to point of commencement, being portion of Block No. 150

Also:

Commencing (sic) on the westerly line of Thirty-first Avenue 256 feet 8 inches northerly from Clement Street; thence westerly on Thirty-first Avenue 343 feet 4 inches to southerly line of California Street; thence westerly 240 feet; thence southerly 368 feet 2 inches; thence northeasterly 241 feet 3 inches to point of commencement, being portion of Block No. 151.

Also:

Commencing on the westerly line of Thirtieth Avenue 375 feet northerly of Clement Street; thence northerly 225 feet to California Street; thence westerly 240 feet; thence southerly 225 feet; thence easterly 240 feet to point of commencement, being portion of Block No. 152.

Also:

Commencing on the westerly line of Twenty-ninth Avenue 320 feet 10 inches northerly of Clement Street; thence westerly on Clement Street 279 feet 2 inches to California Street; thence westerly 240 feet; thence southerly 303 feet 11 inches; thence northeasterly 241 feet 3 inches to point of commencement, being portion of Block No. 153.

Also:

Commencing on the westerly line of Twenty-eighth Avenue 352 feet 11 inches northerly from Clement Street; thence northerly 247 feet 1 inch to California Street; thence westerly 240 feet; thence southerly 272 feet 2 inches; thence northeasterly 241 feet 3 inches to point of commencement, being portion of Block No. 154.

Also:

Commencing on the westerly line of Twenty-seventh Avenue 384 feet 3 inches northerly of Clement Street; thence northerly 215 feet 9 inches to California Street; thence westerly 240 feet; thence southerly 239 feet 11 inches; thence northeasterly 241 feet 3 inches to point of commencement, being portion of Block No. 155.

Also:

Commencing at point 600 feet northerly of California Street and 91 feet 6 inches easterly of the easterly line of Thirty-third Avenue; thence north 90 degrees west 6-2/11 chains; thence nasth (sic) 7 degrees west 5,19 chains to the Pacific Ocean; thence following along the shores of the Pacific Ocean south 78-1/4 degrees east 3.95 chains thence north 50-3/4 degrees east 16.42 chains; thence north 88 degrees east 5.88 chains; thence north 4-1/2 degrees east 64 links; thence north 50-1/4 degrees east 79 links; thence south 59-3/4 degrees east 80 links; thence north 69-3/4 degrees east 1.80 chains; thence north 83-3/4 degrees east 76 links; thence south 79-1/4 degrees east 141 chains; thence north 46- 3/4 degrees east 5.11 chains (leaving shore at this point); thence south 17 degrees east 13.03 chains; thence south 25-3/4 degsees (sic) east 12.55 chains to a point 600 feet north of California Street and 20 feet east of the west line of Twenty-fourth Avenue; thence south 86 degrees 40 minutes west 262 feet 5 inches, more or less, to the point of commencement, containing 63 71.100 acres.

TO GEORGE W. FRINK:

Commencing on the northeasterly corner of P Street and Fifteenth Avenue; thence northerly on Fifteenth avenue 326 feet 2inches; thence southeasterly 240 feet 9 inches to westerly line of Fourteenth Avenue; thence southerly on Fourteenth Avenue to the intersection of westerly line of land claimed by Wooster and others; thence southwesterly on said line 219 feet 6 inches to northerly line of Post Street; thence westerly on Post Street 227 feet 8 inches to point of commencement -- being portion of Block 959.

Also:

Commencing on the westerly line of Fifteenth Avenue 4 feet 9 inches northerly from P street; thence northerly on

Fifteenth avenue 324 feet 8 inches; thence northwesterly 240 feet 4 inches to easterly line of Sixteenth avenue; thence southerly on Sixteenth avenue 324 feet 8 inches; thence southwesterly 240 feet 4 inches to point of commencement -- being portion of Block 960.

Also:

Commencing on the northwesterly corner of P street and Sixteenth avenue; thence northerly 346 feet, more or less; thence westerly 3 feet 8 inches, more or less; thence southwesterly 329 feet 9 inches, more or less, to P street; thence easterly 22 feet 9 inches to point of commencement -- being portion of Block 961.

TO MARGERY BRADLEY.

Commencing on the easterly line of Harrison street 155 feet southerly from Twenty-second street; thence southerly on Harrison street 51 feet; thence at right angles easterly 100 feet; thence at right angles northerly 51 feet; thence at right angles westerly 100 feet to point of commencement -- being portion of Block 140.

Inside.

To JOHN C. PELTON.

Commencing on the northwesterly corner of Pine and Polk streets; thence northerly on Polk street 137 feet 6 inches; thence at right angles westerly 256 feet; thence at right angles southerly 137 feet 6 inches to Pine Street; thence easterly on Pine street 156 feet to point of commencement -- being portion of Western Addition Block 55.

And the Clerk is hereby directed to publish notices of the aforesaid awards for three consecutive weeks in the Daily Examiner, a newspaper printed in the City and County of San Francisco, in accordance with Section 2 of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco", etc., approved March 24th, 1870.

In Board of Supervisors, San Francisco, December 9, 1872.

Adopted by the following vote:

Ayes: Supervisors Menzies, Swain, Kenney, McCarthy, Goodwin, King, Forbes, Story, Shrader, Barrett, Commins, Taylor.

Jno. A. Russell, Clerk.

(S. F. Examiner, Thursday, Dec. 12, 1872, Vol. XV., No. 140, p. 3, col. 8.)

ORDER OF GRANT No. 211.

(January 20, 1873.)

Order of Grant No. 210. Outside and Inside Lands.

Heretofore Jabish Clement, John Conley, Peter Prunty, A. J. Morrell, Jacob Ott, Samuel Grim, William Davis and Chas. E. Broad, presented to the Board of Supervisors their petitions, each asking from this city and county, a grant for certain lands, as provided by the first section of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco", etc., approved March 24th, 1870. The petitions so presented were referred to the Committee on Outside Lands; and the petitioners appeared before the Clerk of said Committee and made proofs of the matters alleged in their petitions, as required by the second section of said Act. Afterwards, the said Committee duly considered the proofs produced, and filed the same, together with their report thereon, with Clerk of said Board. The said Committee in their said report recommended in each case that a grant be awarded as prayed for in the petitions therein, provided the petitioners shall before receiving a deed, quit-claim and peaceably deliver the possession of all lands claimed by them reserved according to the provisions of said Act.

Afterwards, on the 20th day of Jan., 1873, said reports were submitted to said Board for approval, and it appeared to said Board that the respective claims of the several petitioners were well founded; whereupon the said reports were and are in all things approved.

Now, therefore the people of the City and County of San Francisco do ordain that grants of land be and the same are hereby adjudged and awarded to the said petitioners, severally, as follows, viz:

Outside.

TO JABISH CLEMENT.

Commencing on the northerly line of Fulton Street 70 feet west of the westerly line of Parker avenue; thence northerly at right angles with Fulton street 120 feet, more or less, to the northerly line of the Sublett tract; thence westerly along the northerly line of the Sublett tract 322 feet, more or less, to the westerly line of said tract; thence south 23 degrees 45 minutes east 130 feet, more or less, to north line of Fulton street; and thence easterly along said line of Fulton street 294 feet, more or less, to point of commencement.

TO JOHN CONLEY.

Commencing on the easterly line of Iowa street 100 feet southerly from Yolo street; thence at right angles easterly 100 feet, thence at right angles southerly 50 feet; thence at right angles westerly 100 feet to Iowa street; thence northerly

on said Iowa 50 feet to point of commencement -- being portion of Potrero Block 332.

-oOo-

TO PETER PRUNTY.

Commencing on the westerly line of Capp street 130 feet northerly from Twenty-fifth street; thence northerly on Capp street 65 feet; thence at right angles westerly 115 feet to an alley; thence at right angles southerly 65 feet; thence at right angles easterly 115 feet to point of commencement -- being portion of Mission Block 171.

-oOo-

TO A. J. MORRELL

Commencing at the northwesterly corner of California and Lyon streets, thence westerly on California street 100 feet; thence northerly 132 feet 7-1/8 inches; thence easterly 100 feet to westerly line of Lyon street; thence southerly on Lyon street 132 feet 7-1/8 inches to point of commencement -- being portion of Western Addition Block 622.

-oOo-

TO JACOB OTT.

Commencing on the southeasterly corner of Yolo and Iowa streets; thence southerly on Iowa street 50 feet; thence at right angles easterly 100 feet; thence at right angles northerly 50 feet to southerly line of Yolo street, thence westerly on Yolo street 100 feet to point of commencement -- being portion of Potrero Block 332.

-oOo-

Inside.

TO SAMUEL GRIM.

Commencing at a point on the westerly line of Howard street 155 feet northerly from Twentieth street; thence northerly on Howard street 148 feet 6 inches; thence at right angles westerly 122 feet 6 inches; thence at right angles northerly 4 inches thence at right angles westerly 122 feet 6 inches to easterly line of Capp street, thence southerly on Capp street 148 feet 10 inches; thence at right angles easterly 245 feet to point of commencement -- being portion of Mission Block 62.

Also:

Commencing on the easterly line of Mission street 95 feet northerly from Twentieth street; thence northerly on Mission street 165 feet; thence at right angles easterly 245 feet to Capp street; thence southerly on Capp street 165 feet; thence at right angles westerly 245 feet to point of commencement -- being portion of Mission Block No. 62.

Commencing on the easterly line of Mission street 215 feet southerly from Twentieth street; thence southerly on Mission street 30 feet; thence at right angles easterly 122 feet 6 inches; thence at right angles northerly 30 feet; thence at right angles westerly 122 feet 6 inches to point of commencement -- being portion of Mission Block 63.

Also:

Commencing on the southerly line of Seventeenth (or Corbett) street 125 feet westerly from Dolores street; thence westerly on Seventeenth street 75 feet; thence at right angles southerly 275 feet; thence at right angles easterly 75 feet; thence at right angles northerly 275 feet to point oc commencement -- being portion of Mission Block 85.

-oOo-

TO WILLIAM DAVIS.

Commencing on the northerly line of Pine street 60 feet easterly from Hyde street; thence easterly on Pine street 77 feet 6 inches; thence at right angles northerly 137 feet 6 inches; thence at right angles westerly 77 feet 6 inches; thence at right angles southerly 137 feet 6 inches to point of commencement -- being portion of Block 277.

-oOo-

TO CHARLES E. BROAD.

Commencing at the northeasterly corner of Hyde and Pine streets; thence easterly on Pine street 60 feet; thence at right angles northerly 112 feet 6 inches; thence at right angles westerly 60 feet to Hyde street; thence southerly on Hyde street 112 feet 6 inches to point of commencement -- being portion of Block 277.

And the clerk is hereby directed to publish notices of the aforesaid awards for three consecutive weeks in the Daily Examiner, a newspaper printed in the City and County of San Francisco, in accordance with Section 2 of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco", etc., approved March 24th, 1870.

In Board of Supervisors, San Frand sco, January 20, 1873.

Adopted by the following vote:

Ayes: Supervisors Menzies, Kenney, McCarthy, Goodwin, King, Forbes, Story, Shrader, Barrett, Commins, Taylor.

Excused from voting: Supervisor Swain.

Jno. A. Russell, Clerk.

(S. F. Examiner, Thursday, Jan. 23, 1873, Vol. XVI., No. 19, p. 4, col. 2.)

ORDER OF GRANT No. 212.

(March 17, 1873)

Order of Grant No. 212. Outside and Inside Lands.

Heretofore John Spottiswood, N. Yung, James H. Cummings, W. J. Pritchard, William Hollis, Thos. M. Sweeny, William E. Loomis, M. F. Kean, Henry L. Davis, Thomas H. Yeigenfuss, Charles Broad, James Dexter, and Israel W. Raymond, presented to the Board of Supervisors their petitions, each asking from this city and county, a grant for certain lands, as provided by the first section of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco", etc., approved March 24th, 1870. The petitions so presented were referred to the Committee on Outside Lands; and the petitioners appeared before the Clerk of said Committee and made proofs of the matters alleged in their petitions, as required by the second section of said Act. Afterwards, the said Committee duly considered the proofs presented, and filed the same, together with their report thereon, with Clerk of said Board. The said Committee in their said report recommended in each case that a grant be awarded as prayed for in the petition therein, provided the petitioners shall, before receiving a deed, quit-claim and peaceably deliver the possession of all lands claimed by them reserved according to the provisions of said Act.

Afterwards, on the 17th day of March, 1873, said reports were submitted to said Board for approval, and it appeared to said Board that the respective claims of the several petitioners were well founded; whereupon the said reports were and are in all things approved.

Now, therefore, the people of the City and County of San Francisco do ordain that grants of land be and the same are hereby adjudged and awarded to the said petitioners, severally, as follows, viz:

Outside.

TO JOHN SPOTTISWOOD.

Commencing on the westerly line of Broderick street 55 feet northerly from Eddy street; thence northerly on easterly side of Broderick street 82 feet 6 inches; thence at right angles westerly 100 feet; thence at right angles southerly 82 feet 6 inches; thence at right angles easterly 100 feet to Broderick street and point of commencement -- being portion of Western Addition Block No. 533.

Also:

Commencing at the southwesterly corner of Broderick and O'Farrell streets; thence westerly on O'Farrell street 100 feet; thence at right angles southerly 55 feet; thence at right angles easterly 100 feet to Broderick street; thence at right angles northerly on Broderick street 55 feet to point of commencement -- being portion of Western Addition Block 534.

-oOo-

TO N. YUNG.

Commencing on the northwesterly corner of Eddy and Broderick streets; thence northerly on Broderick street 55 feet; thence at right angles westerly 100 feet; thence at right angles westerly 55 feet; thence at right angles easterly 100 feet to point of commencement -- being portion of Western Addition Block No. 533.

Also:

Commencing on the westerly line of Broderick street at a point 137 feet 6 inches northerly from Ellis street; thence northerly on Broderick street 82 feet 6 inches; thence at right angles westerly 100 feet; thence at right angles southerly 82 feet 6 inches; thence at right angles easterly 100 feet to point of commencement -- being portion of Western Addition Block No. 534.

-oOo-

TO JAMES H. CUMMINGS.

Commencing at the southeasterly corner of Twenty-third and Howard streets, thence southerly on easterly line of Howard street 120 feet; thence easterly 85 feet; thence northerly 121 feet, more or less, to southerly line of Twenty-third street; thence westerly 59 feet 6 inches to point of commencement -- being portion of Mission Block No. 153.

-oOo-

TO W. J. PRITCHARD.

Commencing on the westerly line of Bryant street 234 feet northerly from Twenty-fifth street; thence northerly on Bryant street 52 feet; thence at right angles westerly 100 feet; thence at right angles westerly 52 feet; thence at right angles easterly 100 feet to Bryant street and point of commencement -- being portion of Mission Block No. 175.

Also:

Commencing on the easterly line of Nebraska street 433 feet southerly from Nevada street; thence southerly on Nebraska street 133 feet; thence at right angles easterly 75 feet; thence at right angles northerly 133 feet; thence at right angles westerly 75 feet to Nebraska street and point of commencement -- being portion of Potrero Block No. 111.

Also:

Commencing on the northwesterly corner of Yolo and Vermont streets; thence northerly on Vermont street 100 feet; thence at right angles westerly 25 feet; thence at right angles southerly 100 feet to Yolo street; thence at right angles easterly on Yolo street 25 feet to point of commencement -- being portion of Potrero Block No. 111.

-oOo-

TO WILLIAM HOLLIS.

Commencing at a point on the easterly line of Rhode Island street 5 feet 11 inches southerly from Sierra street; thence southerly on Rhode Island street 427 feet 1 inch; thence at right angles easterly 200 feet to westerly line of DeHaro street; thence at right angles northerly on DeHaro street 35 feet 8 inches; thence northwesterly 437 feet 1 inch to point of commencement -- being portion of Potrero Block No. 158.

Also:

Commencing on the northerly line of Nevada street 37 feet 11 inches westerly from Carolina street; thence running westerly on Nevada street 162 feet 1 inch to easterly line of DeHaro street; thence at right angles northerly on DeHaro street 313 feet 9 inches; thence southeasterly 354 feet 6 inches to point of commencement -- being portion of Potrero Block No. 180.

-oOo-

TO THOMAS M. SWEENY.

Commencing at the southwesterly corner of Seventh avenue and I street; thence westerly on southerly line of I street 240 feet to Eighth avenue; thence southerly at right angles on easterly line of Eighth avenue 378 feet to line of land claimed by Paul Rousset; thence in an easterly direction 240 feet 9 inches, more or less, to westerly line of Seventh avenue; thence northerly on westerly line of Seventh avenue 353 feet 3 inches to I street and point of commencement -- being portion of Block No. 679.

Also:

Commencing at the southwesterly corner of Eighth avenue and I street; thence westerly on southerly line of I street 240 feet to Ninth avenue; thence southerly at right angles on easterly line of Ninth avenue 408 feet 11 inches; thence easterly 241 feet 2 inches, more or less, to the westerly line of Eighth avenue; thence northerly on westerly line of Eighth avenue 385 feet 2 inches to I street and point of commencement -- being portion of Block 680.

Also:

Commencing at the southwesterly corner of Ninth avenue and I street; thence westerly on southerly line of I street 111 feet 11 inches; thence southerly 82 feet 3 inches; thence easterly 100 feet 2 inches to westerly line of Ninth avenue, thence northerly on Ninth avenue 71 feet 6 inches to southerly line of I street and point of commencement -- being portion of Block No. 681.

Also:

Commencing at a point on the westerly line of Tenth avenue 151 feet northerly of northerly line of J street; thence westerly 165 feet 10 inches to line of land claimed by Adams & Blinn; thence northwesterly 171 feet 10-1/2 inches; thence at right angles northeasterly 171 feet 10-1/2 inches; thence at right angles southeasterly 113 feet to westerly line of Tenth avenue; thence southerly along westerly line of Tenth avenue 53 feet 9

inches to point of commencement -- being portion of Block 682.

Also:

Commencing at the northwesterly corner of Ninth avenue and K street; thence northerly on westerly line of Ninth avenue 517 feet 4 inches; thence southwesterly 241 feet 4 inches to easterly line of Tenth avenue, at a point 107 feet 4 inches south of the southerly line of J street; thence southerly on the easterly line of Tenth avenue 297 feet 8 inches; thence southeasterly 45 feet ; thence southwesterly 12 feet to Tenth avenue at a point 450 feet 3 inches south of the southerly line of J street; thence southerly on easterly line of Tenth avenue 147 feet more or less, to northerly lind of K street; thence easterly on northerly line of K street 240 to westerly line of Ninth avenue and point of commencement -- being portion of Block 760.

Also:

Commencing at the northeasterly corner of K street and Ninth avenue; thence northerly on easterly line of Ninth avenue 524 feet 6 inches to line of land claimed by Paul Rousset; thence northeasterly on said line 241 feet 4 inches to Eighth avenue, at a point 50 feet 9 inches southerly of J street; thence southerly on Eighth avenue 186 feet 6 inches; thence northwesterly 89 feet 3 inches; thence southerly 375 feet, more or less, to the northerly line of K street; thence westerly on northerly line of K street 129 feet 5 inches to easterly line of Ninth avenue and point of commencement -- being portion of Block No. 761.

Also:

Commencing at a point on the westerly line of Seventh avenue 18 feet 10 inches southerly from J street; thence southerly on Seventh avenue 236 feet 2 inches; thence westerly 240 feet 6 inches, more or less, to the easterly line of Eighth avenue; thence northerly on easterly line of Eighth avenue 197 feet 9 inches to southerly line of land claimed by Paul Roussett; thence easterly on said line 241 feet 4 inches to Seventh avenue and point of commencement -- being portion of Block No. 762.

Also:

Commencing at the southeasterly corner of K street and Ninth avenue; thence southerly on easterly line of Ninth avenue 558 feet 9 inches; thence easterly 91 feet; thence northerly 565 feet, more or less, to the southerly line of K street at a point 125 feet easterly of Ninth avenue; thence westerly on K street 125 feet to Ninth avenue and point of commencement -- being portion of Block 776.

Also:

Commencing at the southwesterly corner of K street and Ninth avenue; thence southerly on westerly line of Ninth avenue 555 feet 3 inches; thence westerly 240 feet 6 inches, more or less, to Tenth avenue at a point 56 feet 8 inches northerly of L. Street; thence northerly on easterly line of Tenth avenue 543 feet 4 inches to southerly line of K street; thence easterly on K street 240 feet to Ninth avenue and point of commencement -- being portion of Block 777.

Also:

Commencing on the westerly line of Tenth avenue at a point distant 125 feet 9 inches southerly of K street; thence southerly on Tenth avenue 406 feet 1 inch; thence westerly 240 feet 6 inches to Eleventh avenue at a point 72 feet 1 inch northerly of L. street; thence northerly on Eleventh avenue 204 feet 9 inches; thence northeasterly 197 feet 8 inches; thence northwesterly 171 feet 10-1/2 inches; thence northeasterly 60 feet 2 inches, more or less, to Tenth avenue and point of commencement -- being portion of Block No. 778.

Also:

Commencing at a point on the easterly line of Twelfth avenue 87 feet 6 inches northerly of L street; thence northerly on easterly line of Twelfth avenue 330 feet 2 inches to line of land claimed by Paul Rousset; thence northeasterly 183 feet 4 inches; thence southeasterly 171 feet 10-1/2 inches; thence northeasterly 40 feet; more or less, to westerly line of Eleventh avenue; thence southerly on Eleventh avenue 194 feet 2 inches, more or less, to a point 75 feet 6 inches northerly on L street; thence westerly 240 feet 6 inches; more or less, to Twelfth avenue and point of commencement -- being portion of Block No. 779.

-oOo-

TO M. F. KEAN.

Commencing at a point 30 feet southerly of Yolo street and 25 feet easterly from Nebraska street; thence at right angles southerly 133 feet; thence at right angles easterly 75 feet; thence at right angles northerly 133 feet; thence at right angles westerly 75 feet to point of commencement -- being portion of Potrero Block No. 112.

-oOo-

TO HENRY L. DAVIS.

Commencing at a point on the easterly line of the Old San Jose Road 130 feet northerly from Twenty-sixth street; thence northerly on the Old San Jose Road 65 feet; thence at right angles easterly 90 feet to an alley; thence at right angles southerly on the line of said alley 65 feet; thence at right angles westerly 90 feet to the easterly line of Old San Jose Road and point of commencement -- being portion of Mission Block No. 184.

-oOo-

TO WILLIAM E. LOOMIS.

The undivided 1/37 portion of the following described land:

Commencing at the southwesterly corner of Oak and Stanyan streets; thence easterly on Oak street 300 feet 2 inches; thence south 32-3/4 degrees east 290 feet 5 inches to west line of Shrader street; thence southerly 15 feet to northerly line of

Page street; thence westerly 412 feet 6 inches to easterly line of Stanyan street; thence northerly 275 feet to point of commencement -- being portion of Block No. 700.

Also:

Block No. 699, bounded by Stanyan, Shrader, Page and Haight streets.

Also:

Block No. 698, bounded by Stanyan, Waller, Shrader and Haight streets.

Also:

Commencing on the northeasterly corner of Fell and Stanyan streets; thence easterly 122 feeet (sic); thence northwesterly 299 feet 7 inches to southerly line of Hayes street; thence westerly 3 feet 2 inches to Stanyan street; thence southerly 275 feet to point of commencement -- being portion of Block No. 702.

Also:

Commencing at the northeasterly corner of Haight and Shrader streets; thence northerly on Shrader street 201 feet 5 inches; thence south 35 degrees east 212 feet 5-1/2 inches to north line of Haight street; thence westerly 87 feet 1 inch to point of commencement -- being portion of Block No. 692.

Also:

Commencing at the northeasterly corner of Waller and Shrader streets; thence easterly on Waller street 251 feet; thence north 35 degrees west 304 feet 6 inches to Haight street; thence westerly on Haight street 119 feet 10 inches to Shrader street; thence southerly 275 feet to point of commencement -- being portion of Block No. 698.

-oOo-

TO THOMAS H. ZEIGENFUSS.

Commencing on the westerly line of Valencia street 65 feet southerly from Twenty-fourth street; thence at right angles westerly 90 feet to an alley-way; thence at right angles northerly 65 feet; thence at right angles easterly 90 feet to westerly line of Valencia street - being portion of Mission Block No. 169.

-oOo-

Inside.

TO CHARLES BROAD.

Commencing on the westerly line of Hyde street 112 feet 6 inches northerly from Pine street; thence northerly on Hyde street 25 feet; thence at right angles easterly 60 feet; thence at right angles southerly 25 feet; thence at right angles

westerly 60 feet to point of commencement -- being portion of Block No. 277.

-oOo-

TO JAMES DEYTER.

Commencing at a point on the westerly line of Pennsylvania avenue 150 feet southerly from Solano street; thence southerly on Pennsylvania avenue 75 feet; thence at right angles westerly 100 feet; thence at right angles northerly 75 feet; thence at right angles easterly 100 feet to the westerly line of Pennsylvania avenue to point of commencement -- being portion of Potrero Block No. 304.

-oOo-

TO ISRAEL W. RAYMOND.

Potrero Block No. 103, bounded by Santa Clara; Mariposa, Vermont and Nebraska streets.

Also:

Commencing at the southwesterly corner of Nebraska and Mariposa streets; thence northerly on Nebraska street 400 feet to Santa Clara street; thence easterly on Santa Clara street 200 feet to Utah street; thence southerly on Utah street 162 feet to line of land claimed by W. H. Jessup; thence westerly on said line 105 feet, more or less, to a point 233 feet 6 inches northerly from Mariposa street; thence southerly 223 feet 6 inches to Mariposa street; thence easterly on Mariposa street 100 feet to Nebraska street and point of commencement -- being portion of Potrero Block No. 94.

-oOo-

And the clerk is hereby directed to publish notices of the aforesaid awards for three consecutive weeks in the Daily Examiner, a newspaper printed in the City and County of San Francisco, in accordance with Section 2 of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco", etc., approved March 24th, 1870.

In Board of Supervisors, San Francisco, March 17, 1873.

Adopted by the following vote:

Ayes: Supervisors Menzies, Swain, Kenney, McCarthy, Goodwin, King, Forbes, Story, Shrader, Commins, Taylor.

Absent: Supervisor Barrett.

Jno. A. Russell, Clerk.

(S. F. Examiner, Wednesday, March 19, 1873, Vol. XVI., No. 66, p. 2, col. 5.)

ORDER OF GRANT No. 213.

(May 17, 1873.)

Order of Grant No. 213. Outside and Inside Lands.

Heretofore James T. Hoyt, Permelia Hughes, Alex. Allen, Augustus C. Diggins, James Daly & Michael Hawkins, W. H. Mueller, Mary Smith, William Curley, Marie Clerc, and Israel W. Raymond, presented to the Board of Supervisors their petitions, each asking from this city and county, a grant for certain lands, as provided by the first section of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco", etc., approved March 24th, 1870. The petitions so presented were referred to the Committee on Outside Lands; and the petitioners appeared before the Clerk of said Committee and made proofs of the Matters alleged in their petitions, as required by the second section of said Act. Afterwards, the said Committee duly considered the proofs produced and filed the same, together with their report thereon, with Clerk of said Board. The said Committee in their said report recommended in each case that a grant be awarded as prayed for in the petitions therein, provided the petitioners shall, before receiving a deed, quit-claim and peaceably deliver the possession of all lands claimed by them reserved according to the provisions of said Act.

Afterwards, on the 26th day of May, 1873, said reports were submitted to said Board for approval, and it appeared to said Board that the respective claims of the several petitioners were well founded; whereupon the said reports were and are in all things approved.

Now, therefore, the people of the City and County of San Francisco do ordain that grants of land be and the same are hereby adjudged and awarded to the said petitioners, severally, as follows, viz:

Outside.

TO JAMES T. HOYT.

Commencing at a point on the easterly line of Bartlett street 36 feet 10 inches northerly from northeasterly corner of Twenty-second and Bartlett streets; thence easterly parallel with Twenty-second street 127 feet 4 inches; thence at right angles northerly 3 feet 2 inches; thence at right angles westerly and parallel with Twenty-second street 127 feet 4 inches to easterly line of Bartlett street; thence at right angles southerly 3 feet 2 inches to point of commencement -- being portion of Mission Block No. 65.

-oOo-

TO PERMELIA HUGHES.

Commencing at a point on the westerly line of Twenty-first avenue 250 feet northerly from Clement street; thence northerly on Twenty-first avenue 100 feet; thence at right angles westerly 240 feet to Twenty-second avenue; thence at right angles southerly 11 feet to land claimed by John Hannan; thence south 9

degrees east 89 feet on said line; thence at right angles easterly and parallel with Clement street 230 feet to Twenty-first avenue and point of commencement -- being portion of Block No. 161.

-oOo-

TO ALEXANDER ALLEN.

Commencing at a point on the westerly line of Twenty-first avenue 390 northerly from Clement street; thence northerly on Twenty-first avenue 40 feet; thence at right angles westerly 240 first to Twenty-second avenue; thence at right angles southerly 40 feet; thence at right angles easterly 240 feet to Twenty-first avenue and point of commencement -- being portion of Block No. 161.

-oOo-

TO AUGUSTUS C. DIGGINS.

Commencing at the southeasterly corner of Bush and Broderick streets; thence southerly on easterly line of Broderick street 120 feet 6 inches; thence at right angles easterly 90 feet; thence at right angles southerly 154 feet 6 inches to northerly line of Sutter street; thence easterly on northerly line of Sutter street 197 feet; thence at right angles northerly 137 feet 6 inches; thence at right angles westerly 81 feet 3 inches; thence at right angles northerly 137 feet 6 inches to southerly line of Bush street; thence westerly on Bush street 206 feet 3 inches to point of commencement -- being portion of Western Addition Block No. 503.

-oOo-

TO JAMES DALY & MICHAEL HAWKINS.

Commencing at a point on the southerly line of Broadway 112 feet 6 inches easterly from Lyon street; thence easterly on Broadway street 50 feet; thence at right angles southerly 130 feet; more or less,; thence southwesterly on line of land claimed by L. Altschul 3 feet, more or less; thence westerly and parallel with Broadway street 6 feet; thence northerly 132 feet 7-1/8 inches to point of commencement -- being portion of Western Addition Block No. 575.

Also:

Commencing at the northeasterly corner of Baker and Broadway streets; thence northerly on Baker street 136 feet; thence at right angles easterly 63 feet, more or less, to westerly line of land claimed by L. P. Sage; thence southeasterly along said line 141 feet, more or less, to northerly line of Broadway; thence westerly on said line of Broadway 96 feet 3 inches to point of commencement -- being portion of Western Addition Block No. 547.

-oOo-

TO W. H. MUELLER.

Commencing at a point on the easterly line of Utah street 375 feet southerly from Yolo street; thence at right angles

easterly 100 feet; thence at right angles southerly 58 feet; thence at right angles westerly 100 feet to Utah street; thence northerly on Utah street 58 feet to point of commencement -- being portion of Potrero Block No. 85.

-oOo-

TO MARY SMITH.

Commencing at a point on the easterly line of Harrison street 156 feet northerly from Twenty-third street; thence northerly on Harrison street 26 feet; thence at right angles easterly 100 feet; thence at right angles southerly 26 feet; thence at right angles westerly 100 feet to Harrison street and point of commencement -- being portion of Mission Block No. 140.

-oOo-

TO WILLIAM CURLEY.

Commencing on the northerly line of Twenty-fourth street 97 feet 6 inches easterly of Treat avenue; thence at right angles northerly 104 feet; thence at right angles easterly 25 feet; thence at right angles southerly 104 feet to Twenty-fourth street; t hence westerly at right angles on Twenty-fourth street 25 feet to point of commencement -- being portion of Mission Block No. 152.

Inside.

TO MARIE CLERC.

Commencing at the northeasterly corner of Gough and Greenwich streets; thence northerly on easterlyline of Gough street 19 feet to southerly line of land claimed by Dana & Coddington; thence north 54-3/4 degrees east 100 feet, more or less, along said south line to the southeast corner of Dana & Coddington's claim; thence north 26-1/4 degrees west 53 feet 5 inches to southwest corner of land claimed by Catharine Rodriguez; thence north 70-1/2 degrees east 113 feet 8 inches to southwest corner of Catharine Rodriguez's lot; thence north 33 degrees west 64 feet 6 inches to northeast corner of Catharine Rodriguez's lot; thence north 76 degrees west 24 feet, more or less, to the intersection of the south line of land assessed to Sarah Brown with the north line of Catharine Rodriguez's lot; thence north 61-3/4 degrees east 89 feet along south line of Sarah Brown's lot to the most northeasterly corner of land assessed to P. LeMaitre; thence south 28 degrees east 102 feet 9 inches along the east line of P. LeMaitre's lot to the southwest corner of land assessed to J. G. Winding; thence northeasterly 10 feet, more or less, to westerly line of Subdivision No. 1, assessed to J. G. Winding; thence southeasterly 7 feet, more or less, to the southwesterly corner of said Subdivision No. 1; thence south 83-1/2 degrees east 60 feet, more or less, to the southwest line of lot No. 17 of the Laguna Survey; thence southwesterly along the last-mentioned line 110 feet to the northerly line of Greenwich street; thence westerly on northerly line of Greenwich street 375 feet to point of commencement -- being portion of Block No. 114.

-oOo-

TO ISRAEL W. RAYMOND.

Potrero Block No. 103, bounded by Santa Clara, Mariposa, Vermont and Nebraska streets.

Also:

Commencing at the northwesterly corner of Mariposa and Nebraska streets; thence northerly on Nebraska street 400 feet; thence at right angles westerly on southerly line of Santa Clara street 200 feet to Utah street; thence southerly on Utah street 162 feet to line of land claimed by W. H. Jessup; thence southeasterly on said line 105 feet, more or less, to a point in the center of the Block distant 223 feet 6 inches northerly from Mariposa street; thence southerly 223 feet 6 inches to Mariposa street; thence easterly 100 feet to point of commencement -- being port ion of Potrero Block No. 94.

-oOo-

And the Clerk is hereby directed to publish notices of the aforesaid awards for three consecutive weeks in the Daily Examiner, a newspaper printed in the City and County of San Francisco, in accordance with Section 2 of an Act entitled "An Act to expedite the Settlement of Land Titles in the City and County of San Francisco", etc., approved March 24th, 1870.

In Board of Supervisors, San Francisco, May 17, 1873.

Adopted by the following vote:

Ayes: Supervisors Menzies, Swain, Kenney, McCarthy, Goodwin, King, Forbes, Story, Shrader, Barrett, Commins, Taylor.

Jno. A. Russell, Clerk.

(S. F. Examiner, Monday June 2, 1873, Vol. XVI., No. 130, p. 3, col. 9.)

ORDER OF GRANT No. 214.

(June 30, 1873)

Order of Grant No. 214. Outside and Inside Lands.

Heretofore, Bertha Asselin, John Mahan, Maria T. Divine, Louis Dutertre, Charles Henry Flower, and Samuel Collins, presented to the Board of Supervisors their petitions, each asking from this city and county, a grant for certain lands, as provided by the first section of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco", etc., approved March 24th, 1870. The petitions so presented were referred to the Committee on Outside Lands; and the petitioners appeared before the Clerk of said Committee and made proofs of the matters alleged in their petitions, as required by the second section of said Act. Afterwards, the said Committee duly considered the proofs produced, and filed the same, together with their report thereon, with Clerk of said Board. The said Committee in their said report recommended in each case that a grant be awarded as prayed for in the petitions therein, provided the petitioners shall, before receiving a deed, quit-claim and peaceably deliver the possession of all lands claimed by them reserved according to the provisions of said Act.

Afterwards, on the 30th day of June, 1873, said reports were submitted to said Board for approval, and it appeared to said Board that the respective claims of the several petitioners were well-founded; whereupon the said reports were and are in all things approved.

Outside.

TO BERTHA ASSELIN.

Commencing at a point on the westerly line of Jersey or Hampshire street 225 feet southerly from Twenty-second street; thence southerly at right angles 25 feet; thence westerly at right angles 100 feet; thence at right angles northerly 25 feet; thence easterly at right angles 100 feet to point of commencement -- being portion of Mission Block 148.

-oOo-

Inside.

TO JOHN MAHAN.

Commencing at a point on the southerly line of Bay street 183 feet 4 inches easterly from Dupont street; thence easterly on southerly line of Bay street 45 feet 10 inches; thence southerly at right angles 137 feet 6 inches; thence at right angles westerly and parallel with Bay street 45 feet 10 inches; thence at right angles northerly 137 feet 6 inches to point of Commencement -- being portion of North Beach Block No. 78.

-oOo-

TO MARIA T. DIVINE.

Commencing at the northeasterly corner of Scott Street and Pacific Avenue; thence northerly on easterly line of Scott Street 137 feet 6 inches; thence at right angles easterly 275 feet; thence at right angles southerly 137 feet 6 inches; thence at right angles westerly 275 feet to point of commencement -- being portion of Western Addition Block 422.

-oOo-

TO LOUIS DUTERTRE.

Commencing at the southwesterly corner of ElDorado street and Potrero Avenue; thence westerly on El Dorado street 200 feet to Jersey street; thence southerly on Jersey street 140 feet; thence at right angles easterly 200 feet to Potrero avenue; thence northerly on Potrero avenue 140 feet to point of commencement -- being portion of New Potrero Block 66.

-oOo-

TO CHARLES HENRY FLOWER.

Commencing on the westerly line of Hampshire street 130 feet southerly from Twenty-third street; thence southerly on Hampshire street 52 feet; thence at right angles westerly 100 feet; thence at right angles northerly 52 feet; thence at right angles easterly 100 feet to point of commencement -- being portion of Mission Block 149.

-oOo-

TO SAMUEL COLLINS.

Commencing at a point on the easterly line of Alabama street 220 feet southerly from Twenty-fifth street; running thence easterly and parallel with Twenty-fifth street 100 feet; thence at right angles southerly 25 feet; thence at right angles westerly 100 feet to Alabama street; thence northerly on Alabama street 25 feet to point of commencement -- being portion of Mission Block 179.

-oOo-

And the Clerk is hereby directed to publish notices of the aforesaid awards for three consecutive weeks in the Daily Examiner, a newspaper printed in the City and County of San Francisco, in accordance with an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco", etc., approved March 24th, 1870.

In Board of Supervisors, San Francisco, June 30, 1873.

Adopted by the following vote:

Ayes: Supervisors Menzies, Swain, Kenney, McCarthy, Goodwin, King, Story, Shrader, Commins, Taylor.

Absent: Supervisors Forbes, Barrett.

Jno. A. Russell, Clerk.

(The Examiner, July 8, 1873, Vol. XVI., No. 6, p. 1, col. 9.)

ORDER OF GRANT No. 215.

(November 10, 1873.)

Order of Grant No. 215. Outside and Inside Lands.

Heretofore, Charles W. Freeman, Charlotte A. Phelps, Martha Thompson, Ferdinand Reis & Samuel Davis, Anna E. Smith, Mary Ash, Gottfried Blan, Edward H. Doyle, George Brown, John Sullivan & Andrew B. McCreery, Lydia Flanagan, John T. Doyle, Andrew B. McCreery & John Sullivan, presented to the Board of Supervisors their petitions, each asking from this city and county, a grant for certain lands, as provided by the first section of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco," etc., approved March 24th, 1870. The petitions so presented were referred to the Committee on Outside Lands; and the petitioners appeared before the Clerk of said Committee and made proofs of the matters alleged in their petitions, as required by the second section of said Act. Afterwards, the said Committee duly considered the proofs produced, and filed the same, together with their report thereon, with Clerk of said Board. The said Committee in their said report recommended in each case that a grant be awarded as prayed for in the petition therein, provided the petitioners shall, before receiving a deed, quit-claim and peaceably deliver the possession of all lands claimed by them reserved according to the provisions of said Act.

Afterwards, on the 10th day of Nov., 1873, said reports were submitted to said Board for approval, and it appeared to said Board that the respective claims of the several petitioners were well-founded; whereupon the said reports were and are in all things approved.

Now, therefore, the people of the City and County of San Francisco do ordain that grants of land be and the same are hereby adjudged and awarded to said petitioners, severally as follows, viz:

Outside.

TO CHARLES W. FREEMAN.

Commencing at a point on the southerly line of Vallejo street distant westerly 77 feet 3 inches from Baker street; thence southerly, parallel with Baker street, 137 feet 6 inches, thence at right angles westerly 51 feet 6 inches; thence at right angles northerly and parallel with said Baker street 137 feet 6 inches to southerly line of Vallejo street; thence easterly on said line 51 feet 6 inches to point of commencement - being portion of Western Addition Block No. 574.

-oOo-

TO CHARLOTTE A. PHELPS.

Commencing at the northeasterly corner of Page and Broderick street; thence northerly on easterly line of Broderick street 275 feet; thence easterly at right angles on southerly line of Oak street 287 feet 6 inches to Charter Line of 1851;

thence southerly on said Charter Line 275 feet to northerly line of Page street; thence westerly on northerly line of Page street 287 feet 6 inches to point of commencement -- being Fractional Block No. 517, Western Addition.

Also:

Commencing on the northerly line of Oak street 191 feet 11 inches easterly from Broderick streets; thence northerly on line of lands conveyed to Johnson & Roussett 156 feet; thence southeasterly on line of lands conveyed to said Johnson & Roussett 73 feet 6 inches to Charter Line of 1851; thence southerly on said Charter Line 143 feet, more or less, to northerly line of Oak street; thence westerly on said line of Oak street 95 feet 7 inches to point of commencement -- being portion of Western Addition Block No. 516.

-oOo-

TO MARTHA THOMPSON.

Commencing on the northerly line of Sierra street 75 feet westerly from Kentucky street; thence westerly on northerly line of Sierra street 25 feet; thence at right angles northerly 100 feet; thence at right angles easterly 100 feet; thence at right angles easterly 25 feet; thence at right angles southerly 100 feet to Sierra street and point of commencement -- being portion of Potrero Block No. 392.

-oOo-

TO FERDINAND REIS, THE UNDIVIDED TWO-THIRDS, AND

TO SAMUEL DAVIS, THE UNDIVIDED ONE-THIRD.

Commencing at the northeasterly corner of Vermont and Colusa streets; thence running northerly on easterly line of Vermont street 433 feet; thence easterly 200 feet to Kansas street; thence southerly on Kansas street 433 feet to Colusa street; and thence westerly 200 feet on Colusa street to point of commencement -- being Potrero Block 118.

Also:

Commencing at the northeasterly corner of Kansas and Colusa streets; thence running northerly on easterly line of Kansas street 141 feet 6 inches; thence easterly 200 feet to Rhode Island street; thence southerly on Rhode Island street 141 feet 6 inches to Colusa street; thence westerly 200 feet along Colusa street to point of commencement -- being portion of Potrero Block No. 149.

Also:

Commencing on the easterly line of Kansas street at a point distant 291 feet 6 inches northerly from Colusa street; thence running northerly on easterly line of Kansas street 141 feet 6 inches; thence easterly 200 feet to Rhode Island street; thence southerly on Rhode Island street 141 feet 6 inches; and thence westerly 200 feet to the point of commencement -- being portion of Potrero Block No. 149.

Also:

Commencing at the northeasterly corner of Colusa and

Rhode Island streets; thence running northerly on Rhode Island street 433 feet; thence easterly 200 feet to DeHaro street; thence southerly on DeHaro street 433 feet to Colusa street; and thence westerly on Colusa street 200 feet to point of commencement -- being portion of Potrero Block No. 153.

-oOo-

TO ANNA E. SMITH.

Commencing at a point on the easterly line of Mission street distant 160 feet southerly from Twenty-third street; thence southerly on said easterly side of Mission street 43 feet; thence easterly 122 feet 6 inches; thence at right angles northerly 43 feet; thence westerly 122 feet 6 inches to point of commencement -- being portion of Mission Block No. 154.

-oOo-

TO MARY ASH.

Commencing at a point on the northerly line of Twenty-fifth street distant 75 feet easterly from Columbia street; thence easterly on Twenty-fifth street 25 feet; thence at right angles northerly 104 feet; thence at right angles westerly 25 feet; thence at right angles southerly 104 feet to said line of Twenty-fifth street and point of commencement -- being portion of Mission Block 175.

-oOo-

TO GOTTFRIED BLAN.

Commencing at a point on the easterly line of Capp street distant 200 feet northerly from the northerly line of Twenty-fourth street; thence northerly on said easterly line of Capp street 34 feet 1-1/2 inches; thence northeasterly along line of land claimed by Mary J. Gerberding 123 feet 7-1/2 inches; thence southerly 51 feet 3/4 inches; thence westerly 122 feet 6 inches to Capp street and point of commencement -- being portion of Mission Block No. 154.

-oOo-

TO EDWARD H. DOYLE.

Commencing at a point on the westerly line of Hampshire street distant 70 feet northerly from Twenty-third street; thence northerly on westerly line of Hampshire street 25 feet; thence at right angles westerly 100 feet; thence at right angles southerly 25 feet; thence at right angles easterly 100 feet to westerly line of Hampshire street and point of Commencement - being portion of Mission Block 148.

-oOo-

TO GEORGE BROWN, THE UNDIVIDED ONE-HALF

JOHN SULLIVAN AND ANDREW B. McCREERY, THE UNDIVIDED ONE-HALF.

Commencing at the northeasterly corner of Tyler and Broderick streets; thence running easterly 137 feet 6 inches; thence northerly at right angles 137 feet 6 inches; thence westerly at right angles 137 feet 6 inches to the easterly line of Broderick street; thence southerly along said line of Broderick

street 137 feet 6 inches to point of commencement -- being portion of Western Addition Block No. 510.

-oOo-

TO GEORGE BROWN, THE UNDIVIDED ONE-HALF

ANDREW B. McCREERY AND JOHN SULLIVAN, THE UNDIVIDED HALF.

Commencing at the southeasterly corner of Tyler and Broderick streets; and running thence easterly on the southerly line of Tyler street 137 feet 6 inches; thence at right angles southerly 137 feet 6 inches; thence at right angles westerly 137 feet 6 inches to the easterly line of Broderick street; thence northerly on the easterly line of Broderick street 137 feet 6 inches to point of commencement -- being portion of Western Addition Block No. 511.

-oOo-

TO LYDIA FLANAGAN.

Commencing at a point on the easterly line of York street distant 70 feet northerly from Twenty-third street; thence northerly on easterly line of York street 25 feet; thence at right angles easterly 100 feet; thence at right angles southerly 25 feet; thence at right angles westerly 100 feet to point of commencement -- being portion of Mission Block No. 148.

-oOo-

Inside.

TO JOHN T. DOYLE.

Commencing on the southeasterly corner of Franklin and Eddy streets; thence running southerly on easterly line of Franklin street 120 feet to the northerly line of Laurel avenue; thence at right angles easterly along said line of Laurel avenue 259 feet 5 inches; thence at right angles northerly, parallel with Franklin street, 120 feet to southerly line of Eddy street; thence at right angles westerly along said line of Eddy street 259 feet 9 inches to point of commencement -- being portion of Western Addition Block No. 79.

-oOo-

TO ANDREW B. McCREERY AND JOHN SULLIVAN.

Commencing at the intersection of easterly line of Devisadero street with the southerly line of McAllister street; thence easterly along the last named line 412 feet 6 inches to the westerly line of Scott street; thence southerly along the last-named line 137 feet 6 inches to a point midway between McAllister and Fulton streets; then westerly on a line parallel with and midway between the last-named streets 412 feet 6 inches to the easterly line of Devisadero street; thence northerly along the last-named line 137 feet 6 inches to the southerly line of McAllister street and point of commencement -- being portion of Western Addition Block No. 449.

Also:

Commencing on the southerly line of Fulton street at a point 137 feet 6 inches east of the easterly line of Devisadero street; thence at right angles southerly 137 feet 6 inches to the

southerly line of the Nichols and Phillips claim; thence due easterly along said line 100 feet, and until the last-named line intersects a line drawn parallel with and 175 feet westerly from Scott street; thence northerly along the last-named line 140 feet, more or less, to the southerly line of Fulton street; thence westerly along the last-named line 100 feet to point of commencement -- being portion of Western Addition Block No. 513.

-oOo-

And the Clerk is hereby directed to publish notices of the aforesaid awards for three consecutive weeks in the Daily Examiner, a newspaper printed in the City and County of San Francisco, in accordance with Section 2 of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco," etc., approved March 24th, 1870.

In Board of Supervisors, San Francisco, November 10, 1873.

Adopted by the following vote:

Ayes: Supervisors Menzies, Swain, Kenney, McCarthy, Goodwin, King, Forbes, Story, Shrader, Barrett, Commins, Taylor.

Jno. A. Russell, Clerk.

(S. F. Examiner, Thursday, November 13, 1873, Vol. XVII, No. 116, p. 3, col. 8.)

ORDER OF GRANT No. 216.

(November 17, 1873.)

Order of Grant No. 216. Inside and Outside Lands.

Heretofore Samuel W. Holladay and Mary Rock presented to the Board of Supervisors their petitions, each asking from this city and county a grant for certain lands, as provided by the first section of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco, " etc., approved March 24th, 1870. The petitions so presented were referred to the Committee on Outside Lands, and the petitioners appeared before the Clerk of said Committee and made proofs of the matters alleged in their petitions, as required by the second section of said Act. Afterwards, the said Committee duly considered the proofs produced, and filed the same, together with their report thereon, with Clerk of said Board. The said Committee in their said report recommended in each case that a grant be awarded as prayed for in the petitions therein, provided the petitioners shall, before receiving a deed, quit-claim and peaceably deliver the possession of all lands claimed by them reserved according to the provisions of said Act.

Afterwards, on the 17th day of Nov., 1873, said reports were submitted to said Board for approval and it appeared to said Board that the respective claims of the several petitioners were well founded; whereupon the said reports were and are in all things approved.

Now therefore the people of the City and County of San Francisco do ordain that grants of land be and the same are hereby adjudged and awarded to the said petitioners, severally, as follows, viz:

Inside.

TO SAMUEL W. HOLLADAY.

Commencing at the intersection of the westerly line of Scott street with the northerly line of Fulton street; thence westerly along the last-named line 275 feet; thence at right angles northerly 137 feet 6 inches to a point midway between Fulton and McAssister streets; thence easterly, midway between and parallel with Fulton and McAllister streets, 275 feet to the westerly line of Scott street; thence southerly 137 feet 6 inches to point of commencement -- being portion of Western Addition Block No. 449.

Also:

Commencing at the intersection of the westerly line of Scott street with the southerly line of Fulton street; thence westerly along the last-named line 175 feet; thence at right angles southerly 137 feet 6 inches, more or less, to the southerly line of the Nichols & Phillips claim; thence due easterly along the last-named street 180 feet, more or less, to the westerly line of Scott street; thence northerly along the line of Scott street 164 feet, more or less, to point of commencement -- being portion of Western Addition Block No. 448.

-oOo-

Outside.

TO MARY ROCK.

Commencing at a point on the easterly line of York street 140 feet southerly from Twenty-fifth street; thence southerly on York street 60 feet; thence at right angles easterly 100 feet; thence at right angles northerly 60 feet; thence at right angles westerly 100 feet to York street and point of commencement -- being portion of Mission Block No. 177.

-oOo-

And the Clerk is hereby directed to publish notices of the aforesaid awards for three consecutive weeks in the Daily Examiner, a newspaper printed in the City and County of San Francisco, in accordance with Section 2 of an Act entitled "An Act to Expedite the Settlement of Land Titles in the City and County of San Francisco", etc., approved March 24th,1870.

In Board of Supervisors, San Francisco, November 17, 1873.

Adopted by the following vote:

Ayes: Supervisors Swain, Kenney, McCarthy, Goodwin, Shrader, Barrett, Commins, Taylor.

Absent: Supervisors Menzies, King, Forbes, Story.

Jno. Russell, Clerk.

(S. F. Examiner, Friday, Nov. 21, 1873, Vol. XVII., No. 123, p. 1, col. 9.)

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